

**Response to Public Comments on
Draft Programmatic Damage Assessment and
Restoration Plan and Draft Programmatic
Environmental Assessment for the ExxonMobil
Pipeline Company July 1, 2011 Yellowstone River
Oil Spill**

Prepared by State and Federal Trustees

State of Montana and U.S. Department of the Interior

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Section I. Introduction

On September 21, 2016, the U.S. Department of the Interior (DOI), acting through the Bureau of Land Management (BLM) and the Fish and Wildlife Service (FWS), and the State of Montana (State) (collectively, the Trustees) issued for public comment a Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Assessment (draft restoration plan) for the ExxonMobil Pipeline Company July 1, 2011 Yellowstone River Oil Spill. The public comment period for the draft restoration plan ran from September 21, 2016 through 5:00 PM on October 31, 2016. Starting on September 21, the document was available electronically at the Montana Natural Resource Damage Program website: <https://dojmt.gov/lands/yellowstone-river-oil-spill-july-2011/>. The Trustees held a press conference in Laurel, Montana on September 21, 2016, to announce a proposed settlement between the federal and State governments and Exxon, and availability of the draft restoration plan. The press event and document issuance resulted in several articles in local and national media outlets. The availability of the proposed consent decree and opportunity to comment were published in the Federal Register on September 28, 2016.

The Federal Register notice also referenced the availability of the draft restoration plan and opportunity to comment. Legal notices for the draft restoration plan were published on September 28, 2016 in the Billings Gazette, the Helena Independent Record, the Missoulian in Missoula, and the Butte Montana Standard newspapers. On September 22, 2016, the Trustees sent notices of the draft restoration plan comment opportunity to over 50 individuals and entities on its mailing list. On October 12, 2016, the Trustees presented the draft restoration plan at a public meeting in Billings and took verbal comments. Over 30 people attended the meeting. The public meeting was advertised on Tuesday, October 11, 2016 in a display ad in the Billings Gazette. The draft restoration plan was presented to the Billings Parks and Recreation Board at their meeting on October 12, 2016, to the Yellowstone County Commission on October 20, 2016, to the Montana Watershed Coordination Council on October 25, 2016, and to the Laurel City Commission on October 25, 2016.

The Trustees received a total of 28 letters or emails during the public comment period, and eight individuals gave verbal testimony at the public meeting in Billings on October 12, 2016. See Attachment A to this Appendix for a list of topics addressed in the comments, identified by a letter. Each commenter's name is also listed, and identified by a number that serves as a reference to the comment throughout this document. Attachment B provides copies of the comment letters. Copies of comment letters are also available on the NRDP website at: <https://dojmt.gov/lands/yellowstone-river-oil-spill-july-2011/>. These responses to comments summarize the comments received and provide the Trustees' responses. Where appropriate, changes were made to the text of the draft restoration plan to reflect the responses to comments. Those changes are identified in Section III of this document.

The Governor and the BLM State Director, Montana make the final decision on the draft restoration plan.

Section II. Comment Summary and Response by Comments

Topic A: Comments in support of the draft restoration plan

Comments: Nine written comments (#1, #2, #6, #7, #10, #12, #13, #16, #28) and three verbal comments (#V2, #V4, #V6) indicated general support for the draft restoration plan. One comment stated a preference for Alternative 2 (#2). Comments #6 and #7 supported the terrestrial/riparian habitat and riverine projects, including conservation easements or fee title land acquisitions to protect and restore those areas and cottonwood bottomlands with complex understory for nesting birds, restoration projects on properties within and adjacent to public lands, woody weed removal on public lands, fish passage improvements in the tributaries, and river function restoration in the mainstem. One comment requested that a percent of the funds go to fish and wildlife preservation (#28). Comment #V6 supported riverine projects and access.

Response: The Trustees acknowledge these comments and appreciate the support for the draft restoration plan. Alternative 2 is the preferred alternative and the one selected for implementation. Implementation of the draft restoration plan would restore fish and wildlife habitat more quickly, and preserve habitat and thus result in fish and wildlife recovery as well as preservation.

Topic B: Comments offering to work with the Trustees

Comments: Six written comments (#9, #10, #11, #13, #19, #20) and two verbal comments (#V1, #V7) offered to work with the Trustees to help plan and implement various aspects of the draft restoration plan, including terrestrial/riparian habitat acquisitions and restoration, control of invasive woody species on state and federal lands, acquiring channel migration easements or other easement or fee title land acquisitions to provide areas for large woody debris recruitment, removing flanked rip rap from the river, removing side channel blockages, improving fish passage at fish barriers, restoring and stabilizing river banks using soft bank restoration techniques, assistance with access, and recreation.

Response: The Trustees appreciate the offers of help and will be looking for ways to partner with local entities as much as possible.

Topic C: Comments on project prioritization and selection

Comments: Twelve written comments (#6, #7, #9, #10, #11, #12, #13, #14, #15, #16, #20, and #23) and three verbal comments (#V3, #V4, #V6) requested more information on how the Trustees will prioritize and select projects. Five comments requested that local agencies, organizations, and landowners be included in the prioritization and selection of projects (#9, #10, #13, #14, #15, #20). Two comments (#6 and #7) stated that with a lack of sufficient funds, only a few projects can be pursued and fully completed. Two comments (#10, #15) stated that projects addressing those lands directly affected by the spill should have priority. Three comments (#12 and #16, #V6) stated that before fixing tributary fish passages, main stem river fish passage projects should be prioritized. Verbal comment #V6 stated that the draft restoration plan includes a lot of projects between Laurel and Billings but not many downriver from Billings.

One comment (#13) requested that the project prioritization should be based on science-based principles.

Response: The OPA regulations state that trustees should develop more detailed work plans to implement restoration. 15 CFR 990.66(a)(2). The Trustees have developed more detailed implementation plans describing how projects will be prioritized and selected using science based decisions working with local resource managers. The plans are described in Chapter 7, Implementation Plan and in Appendix D and Appendix F. Chapter 7 has been revised to explain more fully restoration implementation, including project selection. Further details of the federal lead pelican project can be found in Appendix D. Appendix F provides further information on the process the State Trustee will use to select and implement projects.

Topic D: Comments about monitoring plans

Comment: Two verbal comments (#V7, #V8) asked about long term project monitoring plans. Comment #V7 asked about what will be the length of time of land protections for easements. Comment #V8 asked how much money will be allocated for continued riparian area and river aquatic species monitoring, and how long monitoring would take place. The comment asked if the monitoring would be in addition to routine monitoring on the river. Comment #V3 asked how the Trustees know “what river we’re trying to restore it back to.”

Response: The OPA regulations state that each project should be monitored to document restoration effectiveness and include performance criteria that will be used to determine the success of restoration or need for interim corrective action (15 CFR 990.55 (b)(1)(vii)). Specific monitoring and adaptive management plans, as necessary, will be developed for each project concurrent with its development and implementation. Restoration project monitoring plans will address duration and frequency, sampling level, reference sites (as needed), and reasonable costs. More information on monitoring is included in Chapter 7, Implementation Plan. As part of its regular activities, FWP monitors the biologic resources in the Yellowstone River and riparian areas. The Trustees may fund FWP to add monitoring of specific resources related to specific restoration projects in order to gauge the progress, performance, and success of the restoration actions developed under the restoration plan (15 CFR 990.5(b)(3)).

The dollar amount allocated to long term monitoring of projects has not yet been determined, as it will depend on the specifics of the projects.

Easement terms will be determined on a case by case basis. Terms will be long enough to accomplish the restoration plan and project goals.

The overall restoration plan goal is to return the river to its pre-release condition. Each restoration project type described in Chapter 4 has identified specific goals that will guide the selection, development, implementation, monitoring, and completion of projects. Determining when these goals have been accomplished will be based on the professional judgment of the local resource managers, working with Trustees, that the projects have met identified measurable restoration objectives.

Topic E: Comments suggesting methods for accomplishing restoration plan goals

Comments: Three written comments suggested methods that were not considered in the draft restoration plan to accomplish certain restoration plan goals (#10, #13, #19). Comment #10 suggested use of quiet title searches to ascertain State ownership of land along or within the Yellowstone River. Comment #13 suggested use of deed restrictions as an alternative to channel migration easements to meet large woody debris project goals. Comment #19 suggested use of deed restrictions and term contracts as an alternative to channel migration easements to meet large woody debris project goals.

Response: In accordance with the OPA criteria, the Trustees will use methods that are technically feasible to accomplish the restoration plan goals. The above mentioned methods are technically feasible and the Trustees will consider applying them to projects. Chapter 4 has been clarified to allow quiet title searches for State properties in limited instances. Chapter 4, section 4.6.2.1, has been clarified to include deed restrictions and term contracts.

Topic F: Comments about restoration area

Comments: Two written comments (#12, #16) and two verbal comments (#V5, #V6) questioned the connection to the injury of the restoration area. Comments #12, #16, #V6 stated that there was no loss of use to Laurel Pond or Riverfront Park during the spill but that the loss of use occurred on the Yellowstone River mainstem, that fish passage projects should take place on the mainstem and that the draft restoration plan includes a lot of projects between Laurel and Billings but not many downriver from Billings. Comment #V5 pertained to pelicans and is addressed in Topic P.

Response: To clarify the restoration area for terrestrial/riparian habitat projects, large woody debris projects, riverine habitat projects and recreational human use projects, text has been added to Chapter 4, under the description of each project type, that the area where projects may take place includes upstream and downstream from the injured area (the area most heavily impacted by the spill - see Section 2.0), or in other specified locations such as tributaries or urban ponds. Projects that are outside the injured area will be considered on a project-specific basis for their potential to meet the restoration plan goals.

The comments are not correct that there was no loss of use at urban ponds (Laurel Pond and Lake Josephine). Riverfront Park, including access to Lake Josephine, was closed for some days during the spill response. Appendix E summarizes the loss of use at recreation areas along the Yellowstone River. Compensatory restoration actions are intended to compensate the public for the loss of natural resources and services during the “interim” time period between the start of injury and the eventual recovery of the resource or service (15 CFR 990.53). The urban pond project examples would be compensatory restoration. In general, restoration projects will take place in an area slightly greater than and including the injured area and will include the Yellowstone River upstream, within and downstream of the injured area, tributaries to the Yellowstone River, and Medicine Lake and Bowdoin National Wildlife Refuges (referred to in Section 2.0 as the affected environment or restoration area).

Laurel Pond and Lake Josephine are included in the draft restoration plan as example projects. The draft restoration plan specifies that recreation projects will occur as close to the areas impacted by the spill as practicable. The Yellowstone River area between Laurel and Billings was heavily impacted by the spill. The area targeted for restoration includes upstream and downstream from the directly injured area on a project specific basis. A more detailed explanation of how the Trustees will prioritize and select restoration projects is in Chapter 7, implementation plan, and in Appendix D and Appendix F. Chapter 7 has been revised to explain more fully restoration implementation and project selection. Further details of the federal lead pelican project can be found in Appendix D. Appendix F provides further information on the process the State Trustee will use to select projects. The OPA selection criteria require the Trustees to consider the extent to which restoration projects will help to return injured natural resources and services to at least baseline conditions that were present prior to the oil spill or compensate for interim service loss. Projects will need to demonstrate a clear relationship to the resources and services injured. Projects located within the area affected by the spill are preferred, but projects located within the Yellowstone River watershed that provide benefit to the resources injured in the affected area can also be considered.

The restoration area for fish passage projects was chosen to include tributaries because the fish species injured by the spill in the Yellowstone River were largely warm water species in the transition zone of the Yellowstone River. The fish species assemblage found in the lower Clarks Fork River is very similar to the Yellowstone River fish assemblage in the transition zone below its confluence with the Clarks Fork River. Warm water fish in large river systems like the Yellowstone River frequently travel long distances during their life cycles to reach spawning, feeding and overwintering areas. These activities can take place in the mainstem, in side channels or in tributary streams, depending on the species and habitat suitability. In the Yellowstone River, fish frequently use tributary streams for spawning. See section 2.2.2 in the restoration plan for more information. See Appendix F for an explanation of how projects will be selected.

The restoration area for pelicans is discussed in Topic P. The restoration area as it pertains to private party damages is addressed in Topic L.

Topic G: Comments on river access

Comments: Thirteen written comments (#6, #7, #9, #10, #12, #16, #18, #20, #21, #22, #25, #26, #27) and two verbal comments (#V2, #V6) indicated support of projects that would provide additional and improved fishing access to the Yellowstone River. Two comments mentioned a need to preserve and maintain existing fishing access points (#6, #7). Two comments supported general access to the river for floating and fishing (#10, #18). Two comments (#9, #20) and verbal comment #V2 indicated a need to identify additional public lands along the river to improve public access and suggested development of a computer app to help identify public lands. Three comments supported a new fishing access below Huntley diversion dam (#12, #16, #V6). Two comments supported a new fishing access at the Blue Creek Bridge (#9, #20). One comment supported new fishing access at the confluence of the Yellowstone River with the Clarks Fork

(#21), and one supported fishing access for walk in (#22). One comment supported new fishing access between Columbus and Buffalo Mirage (#25). Two comments supported additional or improved fishing access at Riverfront Park (#26, #27).

Response: The Trustees appreciate the identification of specific potential fishing access sites for maintenance or acquisition. The State Trustee will work with local resource managers to identify locations where restoration work could occur to improve access to fishing access sites. (See also the response to Topic R). Selection of specific new fishing access locations will depend on the process described in Chapter 7, Implementation Plan and in Appendix F. Chapter 7 has been revised to explain more fully the restoration implementation, including project selection. Appendix F provides further information on the process the State Trustee will use to select projects.

Topic H: Comment supporting other park improvements

Comments: Four written comments supported other park improvements such as trail paving from Zoo Montana to Riverfront Park (#3), general improvements at Riverside Park buildings because the public cannot use the park to the degree it was being used before the flood and damage (#8), and a water remediation project to clean up storm water at Dover Park (#9, #20).

Response: The process that will be used to select specific recreation projects is described in Chapter 7, Implementation Plan and in Appendix F. Chapter 7 has been revised to explain more fully restoration implementation, including project selection. Appendix F provides further information on the process the State Trustee will use to select projects.

Topic I: Comments supporting channel migration easements

Comments: Three written comments (#11, #13, #19) and two verbal comments (#V3 and #V7) expressed support for or offered technical knowledge of channel migration easement projects.

Response: The State Trustee will use channel migration easements as appropriate and will look for opportunities to use local expertise.

Topic J: Comments supporting mainstem fish passage projects

Comments: Three comments offered support for main stem river fish passage projects (#12, #16 and verbal comment #V6).

Response: Mainstem fish passage projects will be considered along with tributary fish passage projects to determine which projects would best meet the restoration plan goal of enhancing aquatic habitat for fish production and other aquatic organisms. Please also see the response to Topic F. The process by which the fish passage projects will be selected is outlined in more detail in Chapter 7, Implementation Plan and in Appendix F. Chapter 7 has been revised to explain more fully restoration implementation, including project selection. Appendix F provides further information on the process the State Trustee will use to select projects. Section 4.6.3 has been modified to clarify that fish passage projects may take place on the main stem of the Yellowstone.

Topic K: Comments offering a specific parcel for purchase

Comments: Three comments (#21, #22, #24) offered specific properties for purchase. One comment offered a property for purchase upstream from the confluence with the Clarks Fork (#22). Another offered a property at the confluence with the Clarks Fork (#21). Another comment requested purchase of Dover Island (#24).

Response: Selection of specific properties to meet restoration plan goals will be guided by the process and criteria described in Chapter 7, Implementation Plan and in Appendix F. Chapter 7 has been revised to explain more fully restoration implementation, including project selection. Appendix F provides further information on the process the State Trustee will use to select projects.

Topic L: Comments requesting bank stabilization on private property

Comments: Two comments (#15, verbal comment #V4) requested that the funds be used to stabilize the eroding banks on their properties. Comment #V4 requested that the Trustees “concentrate some of that money on people that were really affected personally and not just hand it out to special interest groups” and that the dollars may be used “for things that may not even be connected with the actual damage to landowners.”

Response: Private claims are distinct from natural resource damages under the Oil Pollution Act. Natural resource damage funds recovered by the Trustees must be used to restore, replace, rehabilitate, or acquire the equivalent of the natural resources injured or lost due to the spill, for those natural resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the Trustees. Disbursing settlement funds to individuals affected would not meet these natural resource damage requirements. For instance, bank stabilization on private property for private party benefit would not meet this requirement. Private claimants have separate recovery under the Oil Pollution Act, such as for landowners with private property damage. Selection of specific projects to meet restoration plan goals will be guided by the OPA process and by the criteria for natural resource damages described in Chapter 7, Implementation Plan, and in Appendix F. Chapter 7 has been revised to explain more fully restoration implementation, including project selection. Appendix F provides further information on the process the State Trustee will use to select projects.

Topic M: Comments supporting Yellowstone River research

Comments: Seven written comments (#1, #4, #5, #6, #7, #9, #20) and two verbal comments (#V2, #V3) requested funding for or mentioned the need for research on the natural resources of the Yellowstone River. Comments #6 and #7 stated that part of the funds should go to FWP to conduct a study of what is in the river and riparian areas. Several comments (#1, #4, #9, #20, #V2) supported an allocation of funds to the Rocky Mountain College Yellowstone River Research Center. Comment #5 requested funding for a study on spiny softshell turtles and snapping turtles. One comment mentioned the need for good baseline data for species along the river and specifically, lack of data on turtles and amphibians (verbal comment #V3). The comment stated “it would be really nice to know what’s in our river.” Three comments (#6, #7, and #V3) stated the need for Yellowstone River biological baseline data in the event of a future spill.

Response: As part of its regular activities, FWP monitors the biologic resources in the Yellowstone River and riparian areas. The Trustees may fund FWP to add monitoring of specific resources related to specific restoration projects in order to gauge the progress, performance, and success of the restoration actions developed under the restoration plan.

New scientific research on post-spill conditions of natural resources in the Yellowstone River is not baseline information because the resources have already been injured. Scientific research tied to monitoring a specific restoration action, with the intent of documenting or improving the effect of the restoration, may provide useful information on the resources and services injured, and demonstrate how the restoration action will help to return the injured natural resources and services to baseline conditions. However, scientific research, undertaken more generally, and not tied to a particular restoration action or project would not meet the OPA selection criteria.

Preparation for a future spill is not within the purpose of restoration under the Oil Pollution Act. Baseline data collected now on the river may not be in the correct location, or obsolete by the time a future event occurs. FWP conducts annual surveys of the riparian and terrestrial biota along the river and other sources of information on the existing environment of the Yellowstone River such as the Yellowstone River Cumulative Effects Analysis and supporting reports document the river's current condition. Monitoring of restoration projects will potentially provide useful information by documenting conditions on the river during recovery, but cannot be the purpose of the action.

Topic N: Comments supporting general weed control

Comments: One written comment (#9) and one verbal comment (#V2) requested use of funds for leafy spurge or knapweed control.

Response: Use of restoration funds for weeds on a landscape scale would not meet the OPA criterion for likelihood of project success. Weed control may be included in specific restoration projects on an as needed basis. Though the use of restoration funds set forth above is very limited, there are other external sources of funds for general weed control.

Topic O: Comments stating settlement dollar amount is too low

Comments: Three written comments (#6, #7, #17) and one verbal comment (#V3) stated that the settlement dollars are not sufficient to fully restore the river and floodplain from the damage caused by the spill.

Response: As stated in section 1.5 of the restoration plan, the Trustees believe that both the settlement and the restoration plan are appropriate for the following reasons. The Trustees have jointly examined and assessed the extent of injury and the proposed restoration alternatives with particular consideration of approaches to restoring, replacing, rehabilitating, or acquiring the equivalent of the injured natural resources and services. If the funding available for restoration is expended in conformance with the restoration plan, the Trustees will be satisfied that the resulting efforts will restore, replace, rehabilitate, or acquire the equivalent for the loss in natural

resources and services suffered. Sums recovered in settlement, other than reimbursement of Trustees' costs, may only be expended in accordance with the restoration plan.

The Trustees have considered, among other things: the nature and extent of the specific injuries that have been identified and studied and the uncertainties attached to those injuries; the uncertainties as to other injuries not fully studied; the potential benefits (and detriments) of ecosystem-level habitat restoration, and the uncertainties attached to those restoration options; the remoteness of the possibility of unknown conditions significantly impacting the natural resources in the future; the further degradation to the environment that would occur as restoration is delayed while further study is undertaken to narrow uncertainties; the further degradation to the environment that would occur as restoration is delayed during the litigation process; and the benefits of starting restoration sooner rather than litigating.

The Trustees have analyzed the injuries applying the factors set forth in the regulations, 15 C.F.R. Part 990, and believe that the settlement amount is adequate to restore, replace, rehabilitate, and/or acquire the equivalent of the injured natural resources, and therefore will compensate the public for the injuries to natural resources the spill caused.

Based on the Trustees' experience implementing restoration projects and resource management programs, the Trustees believe that the \$12,000,000 in restoration funds, as allocated, would provide appropriate and sufficient restoration to compensate for the natural resource injuries described in Chapter 3. See section 1.5 in the restoration plan for more information.

In addition, the Trustees will work with project partners, to the extent practicable, to leverage matching funds from other sources to accomplish further benefit to the natural resources and services within the injured area.

Topic P: Comments about pelican projects

Comments: One verbal comment (#V5) stated that the pelicans on Tongue River Reservoir are not being included in the draft restoration plan and wondered if some of the pelicans on the Yellowstone River are breeding on Tongue River Reservoir and if so, should they be included in restoration efforts. The commenter also wondered where the pelicans on the river are coming from and if they really are coming from northern Montana.

Response: There is no evidence of pelican breeding on the Tongue River Reservoir, as indicated by the Montana Natural Heritage Program. In a study conducted by Restani and Madden (2005), a portion of pelicans using the Yellowstone River breed at Medicine Lake, and based on known foraging distances of American white pelicans (>320 kilometers round trip), it is likely that a portion of pelicans breeding at Bowdoin National Wildlife Refuge are foraging on the Yellowstone River as well. Further details of the federal lead pelican project can be found in Appendix D.

Topic Q: Comments about large woody debris projects

Comments: Two comments (#12, #16) opposed using restoration dollars to build clean woody debris piles downstream, as the river will do this naturally.

Response: The draft restoration plan does not propose to build large woody debris piles manually downstream from upstream sources. That alternative was considered but dismissed (see section 4.7 in the restoration plan for more information). The funds for restoration of large woody debris piles would be used for acquiring channel migration easements, other easements, or fee title land that can erode into the river naturally and recruit large woody debris to the river (see Section 4.6.2 in the restoration plan). Other projects to benefit the large woody debris on the river would further enhance the naturally functioning river system by removing unnatural or man-made restrictions to natural fluvial processes and/or channel migration and function.

Topic R: Comments about normal government services

Comments: One comment (#14) stated that maintenance of existing fish access sites is already funded by hunting and fishing licenses as well as vehicle registration.

Response: The State Trustee agrees that those activities which are part of normal government function, such as routine maintenance at existing fishing access sites, are not an appropriate use of restoration funds, and will not be funded by restoration dollars. Project types that may occur at existing fishing access sites would be outside of the normal routine maintenance at these sites and would be directly related to the goals of the restoration plan. For example, FWP may identify a fishing access site that currently only has a hand boat launch and propose the construction of a boat ramp for all types. The construction of a new boat ramp would be considered as augmenting, but not replacing, normal government function since FWP oversees the construction of fishing access sites, but does not have the funding for construction.

Topic S: Comments requesting more remediation work

Comments: One comment stated that the draft restoration plan should include additional remediation work at Riverside Park (#8). The comment refers to damage to the park and buildings and lost use. Two comments (#12, #16) stated that all contaminated woody debris needs to be removed so that it does not continue to contaminate other parts of the river as it moves around each spring during high water. Another comment (#25) expressed opposition to additional cleanup of large woody debris piles.

Response: The draft restoration plan does not include additional remediation work. This would include Riverside Park. The dollars are allocated for natural resources restoration, not remediation. A summary of the response action (remediation) is included in section 1.3 of the restoration plan. However, the restoration plan has identified recreational human use project types that are not remediation, some of which may be undertaken in Riverside Park. The process for selection of specific recreation projects is described in Chapter 7, Implementation Plan and in Appendix F. Chapter 7 has been revised to explain more fully restoration implementation, including project selection. Appendix F provides further information on the process the State Trustee will use to select projects.

The restoration plan activities do not include additional cleanup of large woody debris piles. A summary of the response action is included in section 1.3 of the restoration plan. In September

2014, the Montana Department of Environmental Quality determined that oil from the pipeline release did not pose an unacceptable risk to public health, welfare or safety, and the environment via surface water. The Department of Environmental Quality concluded work associated with the oil spill on October 28, 2015.

Topic T: Comments suggesting other ideas for use of funds

Comments: One comment requested that a percent of the funds be used for cancer patients (#28). Two comments (#1, #4) requested funding directly for the Yellowstone River Research Center located at Rocky Mountain College. Specifically, comment #1 requested \$10,000 per year for 10 years to be allocated to the research center to support ongoing center activities. The same comment suggested the funds could be used for annual river trash cleanup efforts at fishing access sites and city parks, for field based research for undergraduates at Rocky Mountain College, and for Rocky Mountain College staff and students to conduct community outreach to educate the public about river health and riparian ecosystems (#1). Comment #17 suggested the Trustees set aside a fund of 20 percent for unforeseen cleanup-issues.

Response: The OPA regulations require that settlement dollars be allocated for restoration of natural resources injured by the oil spill. The funding cannot be used for cancer patients.

The State Trustee will consider education and outreach projects on a project-specific basis, if they are related to a primary restoration project and restoration plan goals. Research is addressed further under Topic M. A proposal for an annual river trash cleanup project may be submitted to the recreation advisory committee discussed in Chapter 7, Implementation Plan and Appendix F.

OPA requires that the restoration funds be specifically designated for natural resource restoration. The funds cannot be used for unforeseen cleanup-issues. A summary of cleanup response actions is included in section 1.3 of the restoration plan. Cleanup concerns resulting from new information or unknown conditions would be addressed by either Montana Department of Environmental Quality or U.S. Environmental Protection Agency under response authorities.

Section III. Summary of Changes to Document

Chapter 1

Chapter 1 was modified to reflect that the restoration plan is no longer a draft, but now is a final. References were added to two new appendices:

Appendix F	State Trustee Project Implementation Process
Appendix G	Responses to Public Comments on Draft Restoration Plan

Section 1.4.1 presents the Trustees' assessment that the final restoration plan will not cause significant impacts to the environment.

Section 1.4.5 includes a discussion of public comment on the draft restoration plan. Table 1-1 was updated to reflect changes in Chapter 4.

Chapter 2

Section 2.0 was changed to provide additional clarification of the restoration area.

Chapter 4

Chapter 4 changes include a number of technical clarifications.

- The discussion under each of the project types was modified to clarify where restoration projects would take place.
- Sections 4.6.1.1 and 4.6.2.1 were modified to allow quiet title actions in limited circumstances to provide certainty in desired terrestrial/riparian habitat and intact mature cottonwood bottomland stand areas.
- Section 4.6.2 was modified to clarify that additional land management tools such as deed restriction or term contracts could also be employed to meet restoration plan goals.
- Section 4.6.2.2 was modified after review by resource managers to clarify that the use of channel migration easements are included as a tool for improving natural river function.
- Section 4.6.3 was modified to clarify that fish passage projects may take place on the main stem. Resource managers also recommended including reactivation of old oxbows and backchannels for increasing aquatic habitat.

Section 4.7 was modified to remove the discussion of a larger acquisition area for large woody debris projects. Resource managers did not want to preclude looking at a larger area if, on a project-specific basis, additional properties were needed to restore, replace, rehabilitate, or acquire the equivalent of the injured resources.

Chapter 5

Chapter 5 was modified to include analysis of the technical changes described in Chapter 4, such as use of additional land management tools.

Chapter 6

Section 6.2.2 was modified to explain the rationale for expanding the restoration area for large woody debris.

Chapter 7

Chapter 7 was modified to reflect that the Trustees plan to implement the project types described in the restoration plan within 5 years, with a longer timeframe for monitoring. Additional information on standard NRDP oversight of contracts was also included.

Some information was added to explain the process the State Trustee will use to select individual projects.

Some information was added on additional opportunities for public involvement.

Figures

Figures were modified to make the restoration area clearer.

Attachment A: Comments Received and Comment Topics

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Topic T:	Comments Suggesting Other Miscellaneous Uses of the Funds
Topic U:	Comments Requesting Use of Funds on People Affected Personally

2011 ExxonMobil Pipeline Yellowstone Oil Spill Written Comments Received			
Comment #	Commenter	Organization	Comment Topic
1	Megan Poulette	Rocky Mountain College	A, M, T
2	Yellowstone County Commissioners	Yellowstone County Commission	A
3	Lora Mattox	City of Billings and Yellowstone County Planning Dept.	H
4	Dr. Dan Albrecht	Rocky Mountain College	M
5	Kayhan Ostovar	Rocky Mountain College	M
6	John Bradley	Montana Wildlife Federation	A, C, F, G, M, O
7	Dave Chadwick	Montana Wildlife Federation	A, C, F, G, M, O
8	Mark Mace	Mayor, City of Laurel	H, S
9	Dana Lariviere	Our Montana	B, C, G, H, M, N, T
10	Matt Wolcott	DNRC Southern Land Office	A, B, C, E, G

2011 ExxonMobil Pipeline Yellowstone Oil Spill Written Comments Received			
Comment #	Commenter	Organization	Comment Topic
11	Wendy Weaver	Montana Aquatic Resources Services	B, C, D, I
12	Brad Cole		C, F, G, Q, S
13	Don Youngbauer	Yellowstone River Conservation District Council	A, B, C, E, I
14	Darryl Wilson		C, R
R15	Jerome and Carol Fachner		C, L
16	Eric Wolff	Big Sky Coil	C, F, G, Q, S
17	LeeAnn Bennet		O, T
18	Al Hayes		G
19	Wendy Weaver	Montana Aquatic Resources Services	B, E, I
20	Mike Penfold	Our Montana, Inc.	B, C, G, H, M, N, T
21	Marvin Brown for College Park LLP	Rocky Mountain Ranch Realty	G, K
22	Marvin Brown for James E. Edwards	Rocky Mountain Ranch Realty	G, K
23	Lauren Alleman		C
24	Darryl Wilson	Yellowstone River Parks Association	K
25	Mac Clark	Beartooth Oil and Gas	G, Q
26	Chris Stinson		G
27	Brit Barnes		G
28	Larry Downer		A, T

2011 ExxonMobil Pipeline Yellowstone Oil Spill Verbal Comments October 12, 2016 Meeting			
Comment #	Commenter	Organization	Category
V1	Darryl Wilson	Yellowstone River Parks Association	B
V2	Mike Penfold	Our Montana, Inc	A, G, M, O, T
V3	Alexis Bonogofsky		C, D, I, M, O
V4	Steve Lehenbauer		A, L
V5	Richard Herr		F, P, Q
V6	Eric Wolff		A, C, F, G
V7	Wendy Weaver	Montana Aquatic Resources, Inc	B, I
V8	Brian Corcoran		D

Attachment B Copies of Comment Letters

Coleman, Kathleen

From: Megan Poulette <megan.poulette@rocky.edu>
Sent: Monday, October 31, 2016 4:55 PM
To: Natural Resource Damage Program
Subject: Yellowstone restoration plan comment
Attachments: Yellowstone restoration plan comment.pdf

Please find comments attached.

Thanks,

Megan Poulette

--

Megan Poulette
Rocky Mountain College
Assistant Professor of Environmental Science & Botany
Director - Yellowstone River Research Center
212 Tyler Hall
Billings, MT 59102
406-657-1186

Proposed Settlement and Draft Restoration Plan Comments

From: Yellowstone River Research Center

The Yellowstone River Research Center supports the projects highlighted in the Restoration Plan.

The Yellowstone River Research Center (YRRC) is a multidisciplinary research institute at Rocky Mountain College comprised of faculty from the fields of geology, biology, ecology, wildlife biology, geography, and social science. We would suggest additional funding of \$10,000 a year for 10 years (total: \$100,000) be allocated to the YRRC in support of several ongoing YRRC activities that have a significant impact on the Yellowstone River and the Greater Yellowstone Ecosystem.

YRRC Annual Yellowstone River Cleanup

Rocky Mountain College Environmental Program faculty and the YRRC have been conducting an annual river cleanup float since 2008. RMC faculty, students, and community partners float and collect trash along the Yellowstone River from Duck Creek Bridge to Coulson Park while shore-based teams clean city parks along the river. The first cleanup started with six people and three canoes and has steadily grown over the past nine years to 75 people, split between annual shore teams and river teams with canoes, kayaks, rafts, and drift boats. Since 2008 the river cleanup has accomplished the following:

- 25 organizations have participated in the annual river cleanup
- Total volunteer hours = 3,662
- 54,000 lbs of recycled materials (mostly metal) removed
- 280 tires removed
- 12,870 lbs of trash removed
- Total weight removed from the river 66,870 lbs

Many organizations in the community have supported this project with both donations and volunteers. Funding from the proposed settlement would help to sustain annual cleanup efforts.

Field Based Research for Undergraduates at Rocky Mountain College

YRRC faculty members teach and conduct research in and around the Yellowstone River and in the greater Yellowstone Ecosystem with the goal of deepening our understanding of the natural, physical, and social processes that shape our region. Faculty and student researchers partner with experts from the private and public sector to pursue this research. These partnerships serve to broaden the scope of our work and provide opportunities for undergraduate research. Over the past five years, the YRRC has engaged 30 student researchers and 13 student research assistants in various independent projects. Many of these students have conducted biological monitoring and research in and around the Yellowstone River:

- Bat species habitat use and distribution within the Yellowstone river riparian corridor

- Analysis of heavy metal exposure in two species of MT turtles
- Tumorigenic retroviruses in MT fish populations
- Effects of non-native riparian tree species on soil microbial community activity
- Ownership of Islands in the Yellowstone River
- Survey of stakeholder management preferences for Sage Grouse habitat in Yellowstone County and other counties with "core" Sage Grouse habitat
- Osprey delivery and fledgling success rates
- Study of mercury levels in osprey nestlings along the Yellowstone River
- Baseline hematological values for osprey nestlings on the Yellowstone River

M

Community partners have included: Our Montana, Cinnabar Foundation, Montana Wilderness Association, US Forest Service, USGS, RiverStone Health, ExxonMobil, Pryors Coalition, BLM, World Wildlife Fund. Funding from the proposed settlement would help to support additional research opportunities for RMC students. These funds would help sustain biological monitoring and research in and around the Yellowstone River, including research on the status and distribution of many species along the river.

Community Outreach

In addition to the annual Yellowstone River Cleanup, the YRRC also seeks to support service learning opportunities and outreach between RMC undergraduates and the community. These outreach opportunities serve to educate the public about river health and riparian ecosystems.

- Stream table demonstrations at the Philipps 66 Community Picnic and Nile Rodeo
- Senior high STEM outreach program at ExxonMobil wildlife habitat area
- Community Health Mapping in collaboration with RiverStone Health

Funding from the proposed settlement would allow YRRC faculty and students to continue these outreach efforts.

T

Thank you,

Dr. Megan Poulette

Yellowstone River Research Center Director – Rocky Mountain College

Coleman, Kathleen

From: Paulette Turner-Byrd <pturner-byrd@co.yellowstone.mt.gov>
Sent: Monday, October 31, 2016 8:19 AM
To: Natural Resource Damage Program
Cc: BOCC
Subject: Yellowstone Restoration Plan Comment
Attachments: Comment on Y'stone River Draft Restoration Plan to State (2).pdf

Importance: High

Attached please find the Yellowstone County Commission comments on the Yellowstone Restoration Plan. Please let us know if you have any questions.
Thanx!

*Paulette Turner-Byrd
Office Manager
Yellowstone County Commissioners
PO Box 35000
Billings, MT 59107-5000
(406) 256-2703 (o)
(406) 256-2777 (f)*

Yellowstone County



COMMISSIONERS
(406) 256-2701
(406) 256-2777 (FAX)

P.O. Box 35000
Billings, MT 59107-5000
commission@co.yellowstone.mt.gov

October 31, 2016

State of Montana
Natural Resource Damage Program
Attn: Yellowstone Restoration Plan
PO Box 201425
Helena, MT 59620-1425

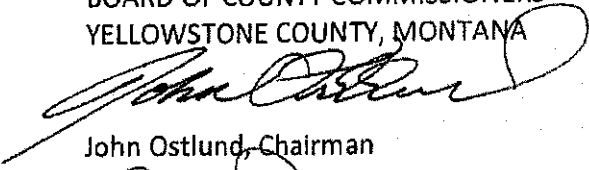
To Whom It May Concern:

The Yellowstone County Board of County Commissioners would like to offer comments on, and support for, Alternative 2 as described in the Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Analysis.

A

Long term recovery is the final step in managing large disasters such as the 2011 Silvertip Pipeline spill. The restoration plan, as outlined in Table ES-1, takes a technically feasible approach to resource recovery of the Yellowstone River and affected lands and resources in Yellowstone County. The multiple project types address the numerous impacts that the oil spill had on the community and economy of Yellowstone County. Yellowstone County would also like to take this time to thank all agencies and individuals who worked over the last 5 years towards the response and recovery of the Yellowstone River and its ecosystem.

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA


John Ostlund, Chairman


James E. Reno, Member


Robyn Driscoll, Member

BOCC/ptb

c: Brad Shoemaker, Emergency & General Services Director

Coleman, Kathleen

From: Mattox, Lora <MattoxL@ci.billings.mt.us>
Sent: Monday, October 31, 2016 9:42 AM
To: Natural Resource Damage Program
Cc: Walker, Scott; Friday, Wyeth
Subject: Yellowstone restoration plan comment
Attachments: NR Damage Program Projects_ZooRiverfront.pdf

Good Morning,

The City of Billings and Yellowstone County Planning Department would like to submit for review the ZooMontana to Riverfront Park Trail Project for funding from the Yellowstone Restoration Plan. The Billings area has experienced rapid growth in its trail system over the past decade and the concept of a continuous trail corridor generally following the Yellowstone River has been a vision for at least 20 years. In 2011, the Yellowstone Riverfront Trail Feasibility Study explored the feasibility of a trail connecting Mystic and Riverfront Parks and was funded by the Billings Chamber of Commerce. In 2014 the Billings MPO commissioned this document to study a similar connection between ZooMontana and Riverfront Park. Substantial new and imminent development is occurring within the area. This project does not have to be fully funded and completed to provide great recreation opportunities. This is a project that can be completed in phases.

H

Click here for a copy of the ZooMontana to Riverfront Trail Feasibility Study: <http://mt-billings3.civicplus.com/DocumentCenter/View/26344>

If you have any questions regarding the project, please do not hesitate to contact me.

Thank you,

*Lora Mattox, AICP
 Transportation Planner, Planner II
 Historic Preservation Officer
 Planning & Community Services Department
 2825 3rd Avenue North, 4th Floor
 Billings, MT 59101
 Phone: 406-247-8622
 Fax: 406-657-8327*

BILLINGS - YELLOWSTONE COUNTY



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<https://www.facebook.com/YellowstoneHistoricPreservationBoard/>

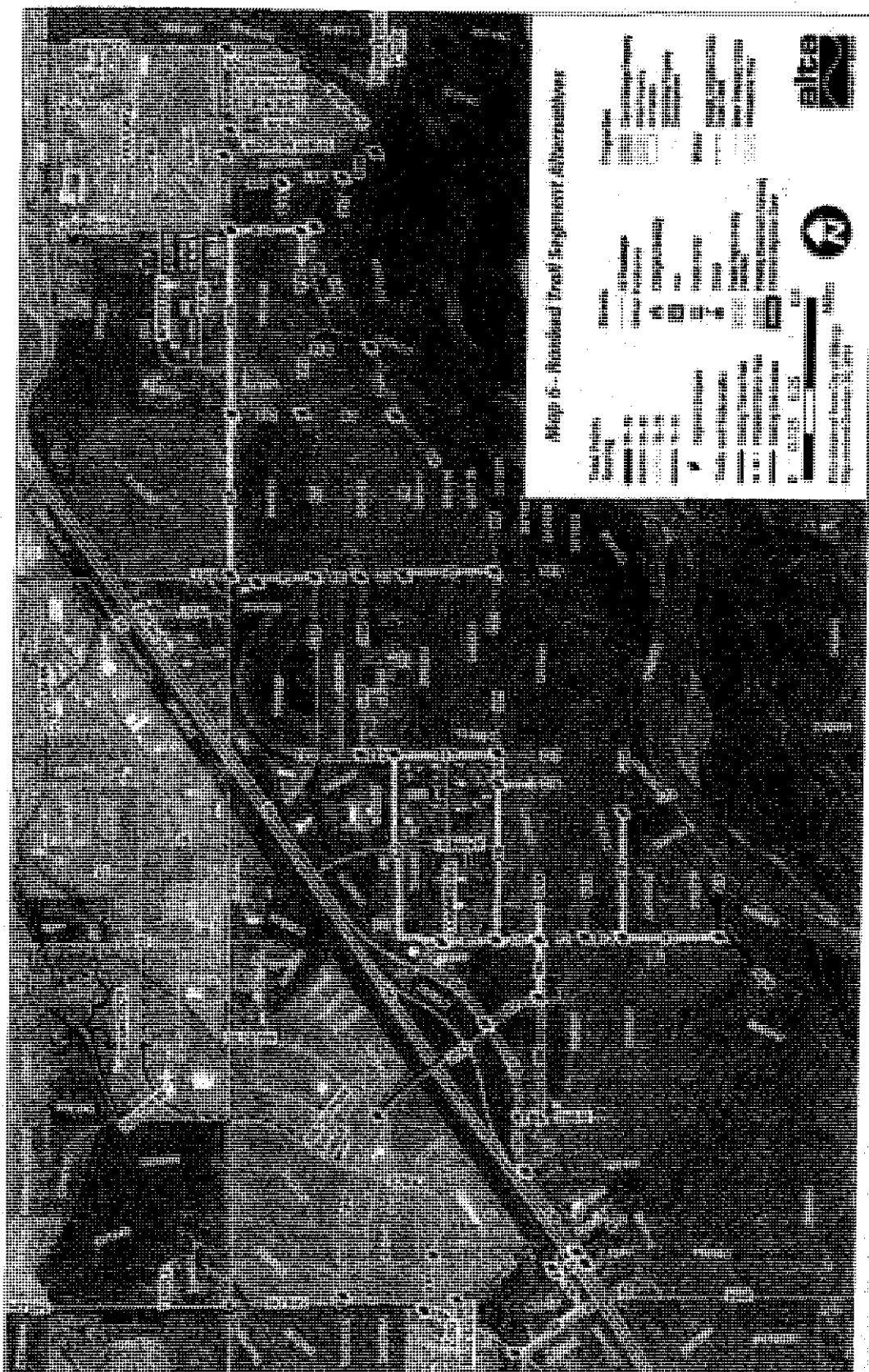


Natural Resource Damage Program Proposed Projects – Yellowstone County

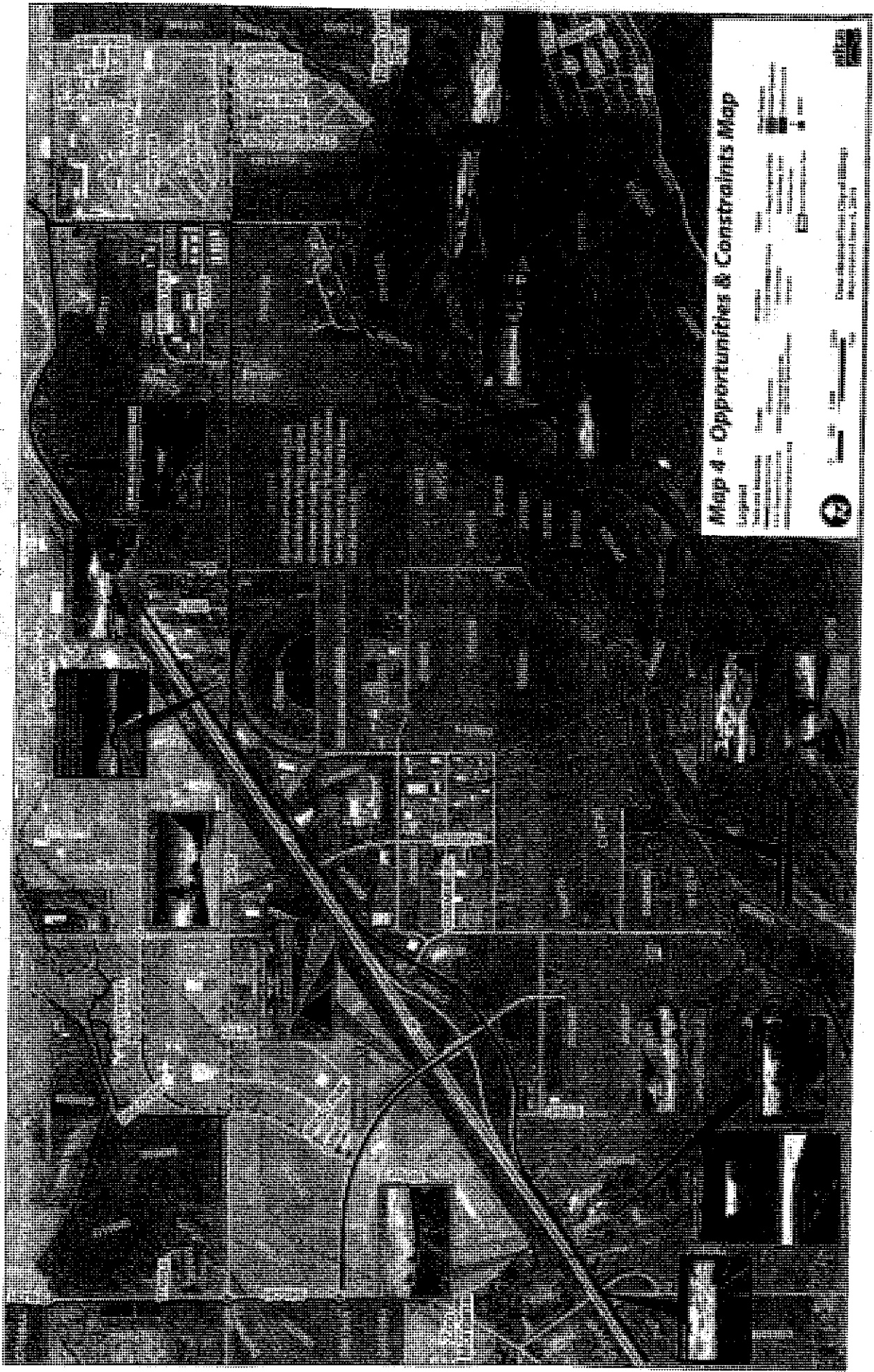
This project was identified as a project that would include natural environment elements, public access, and high visibility. This project was identified through public planning processes and adopted by the Policy Coordinating Committee comprised of the City of Billings, Yellowstone County, Yellowstone County Planning Board and the Montana Department of Transportation. Projects are developed with phased alternatives to allow construction over a period of time as funding becomes available. Along with the description of the project below, included is a map of alternative segments, opportunities and constraints map and a cost estimate by segment.

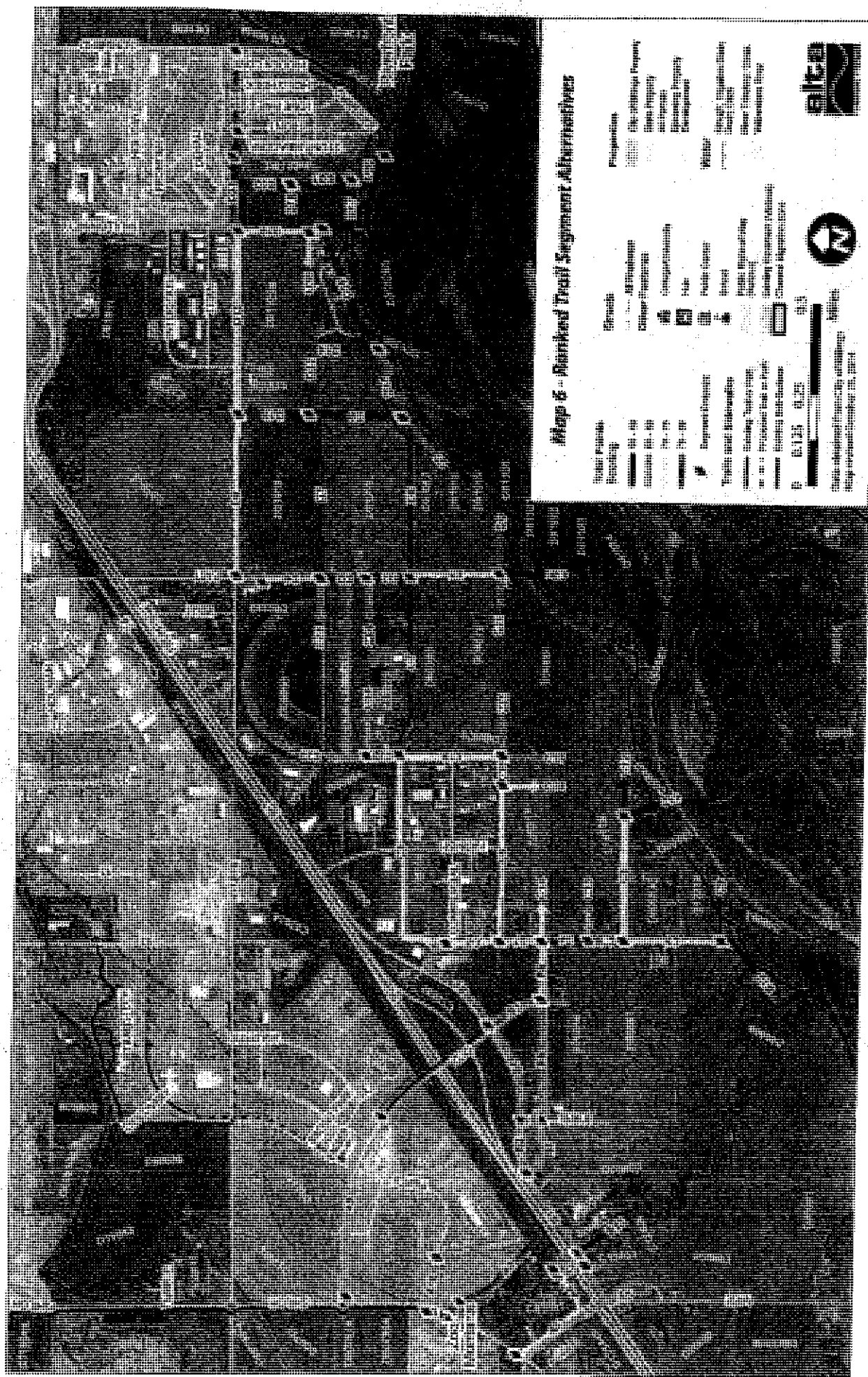
1. ZooMontana to Riverfront Park Trail – This project would build approximately 4 miles of trail connecting existing trail segments that terminate at ZooMontana and Riverfront Park in Yellowstone County, Montana. Alignments were chosen that would remain stable and not be affected by the Yellowstone River migration and flood zones. ZooMontana is a regional destination with high bicycle and pedestrian traffic and is the current south terminus of the Shiloh Road multi-use trail. The trail starting at ZooMontana would traverse along a portion of Canyon Creek provide a linked connection to the Yellowstone River at near Riverfront Park, a 600-acre city park with direct Yellowstone River access. A preliminary design study has been completed and identifies various potential alignment alternatives and cost estimates. This corridor would provide options to the community for pedestrian and bicycle travel. This opportunity provides alternative transportation options for work and play, and encourage environmental stewardship in trail users of all users. This corridor is also a vital link to the 26-mile Billings Marathon Loop. The ideal route identified in the Planning Study provided an estimated cost of \$2.91 million for completion. This did not include engineering, contingency, mobilization, etc. This cost estimate was developed in 2014. To reconcile with today, 20% was added to the cost for inflation, engineering, etc., for a project total of \$3.5 million.

Planning & Community Services Department
2825 3rd Avenue North, 4th Floor
Billings, MT 59101
Fax: (406) 657-8327
Phone: (406) 657-8246



Planning & Community Services Department
2825 3rd Avenue North, 4th Floor
Billings, MT 59101
Fax: (406) 657-8327
Phone: (406) 657-8246





Coleman, Kathleen

From: Dan Albrecht <dan.albrecht@rocky.edu>
Sent: Monday, October 31, 2016 2:33 PM
To: Natural Resource Damage Program
Subject: Yellowstone restoration plan comment

I am requesting that a certain portion of the funds received for the Yellowstone Restoration Plan be granted to the Yellowstone River Research Center (YRRC) at Rocky Mountain College. This group is comprised of faculty across campus (Biology, Geology, Chemistry, Mathematics, Computer Science, and Environmental Science and Studies) and has been heavily involved with basic species monitoring along the Yellowstone River for the last six years. This group could build upon the data already collected if provided with funding from the Yellowstone Restoration Plan.

Respectfully,
Dr. Dan Albrecht
(406) 657-1103

Coleman, Kathleen

From: Kayhan Ostovar <kayhan.ostovar@rocky.edu>
Sent: Monday, October 31, 2016 2:51 PM
To: Natural Resource Damage Program
Subject: Yellowstone restoration plan comment
Attachments: Turtle Proposal Silvertip Spill.pdf

Dear NRDP,

Attached please find a comment and proposal request for oil spill funding allocation. This work is taking place in the exact area of the oil spill and seeks to better understand population status of two species that may have been directly impacted by the spill for which we do not have population estimates.

I would appreciate a confirmation of receipt and any comments you may have.

Thank you,

Kayhan Ostovar

Rocky Mountain College
Associate Professor Environmental Science & Fish and Wildlife Conservation
303 Tyler Hall
Billings, MT 59102

<http://yellowstoneriver.weebly.com>

Ph: 406-657-1175

POPULATION STRUCTURE AND ANTHROPOGENIC INFLUENCES FOR TWO AQUATIC TURTLE SPECIES ON THE YELLOWSTONE RIVER

PROJECT SUMMARY

An ecological study of spiny softshell turtles (*Apalone spinifera*) and snapping turtles (*Chelydra serpentina*) on the mid Yellowstone River and associated tributaries was initiated in 2015 with plans to continue and expand the scope of this study through 2021. One of the primary challenges for assessing the impact of oil spills is knowing the status of various species before the spills occurred. This is especially true for two elusive and rarely seen native Montana turtle species.

Our current study started in 2015 and is based directly in the area impacted by the Silvertip spill from the Clarks Fork River to the Bighorn River, including both those aforementioned tributaries, as well as several other smaller tributaries like Pryor Creek and Razor Creek. With two years of tagging already complete it seems possible to develop population estimates for both these species in the area immediately below the ExxonMobil oil spill and compare population status of turtles on the Yellowstone to the status of other subpopulations on the Bighorn and Clarks Fork Rivers. In the last two years we have tagged nearly 300 spiny softshell turtles and 37 snapping turtles.

FUNDS REQUESTED \$20,000 per year for five years

PRINCIPLE INVESTIGATOR

Kayhan Ostovar, Associate Professor. Ph (406) 657-1175, fax: 406-259-9751, kayhan.ostovar@rocky.edu Rocky Mountain College, Member – Yellowstone River Research Center, <http://yellowstoneriver.weebly.com/>

BACKGROUND & PROBLEM STATEMENT

The snapping turtle (*Chelydra serpentina*) and the spiny softshell turtle (*Apalone spinifera*) are both designated as species of concern in the state of Montana due to a lack of knowledge regarding their conservation status, loss of habitat connectivity and anthropogenic changes in hydrology (Montana Field Guide 2016, Tornabene 2014). While there have been basic distribution and abundance studies for spiny softshell turtles, information on habitat preferences and quality, food habits, population demographics, traditional nesting sites and genetic information is still lacking in Montana (Maxell et al. 2009, Reinersten et al. 2016).

Information on habitat use, population abundance, and basic population structure for these turtle species is necessary to better understand how disturbances (i.e., pipeline breaches) influence this neglected faunal component of freshwater ecosystems. Across seasons and life stages, these species integrate the aquatic environment with nesting riparian zones and beaches. To assess their current and future threats, we need to evaluate: (1) Population connectivity across these basins and barriers to dispersal, as little is known about dispersal and connectivity for long-lived turtles species, but home ranges can exceed 30km² (Iverson et al. 1997, Tornabene 2014). (2) How invasive riparian plants change the substrate and conditions of nesting beaches, and/or overabundant algal growth, due to lower river flows and warmer temperatures, alter habitat quality and potentially decrease oxygen levels during hibernation periods (Reese et al. 2003), and (3) Whether these key species are being exposed to metal contamination at high enough levels to have population level impacts and/or human consumption advisories.

Our lack of basic knowledge is problematic not only for conservation but when disasters occur, such as the Silvertip Pipeline breach on July 1, 2011 and the more recent spill on January 17, 2015. One of the challenges in assessing the damages of these spills is understanding the impact on both these turtle species, for which we still do not have population estimates. The ecological integrity of the Yellowstone River also remains vulnerable to contamination from point and nonpoint sources, such as, refineries, wastewater plants, coal-fired power plants, agricultural activity and feedlots. As long-lived animals, both snapping turtles and spiny softshell turtles may be particularly vulnerable to hydrologic changes that alter critical habitats and population connectivity (Reinersten et al. 2016), catastrophic mortality events, and bioaccumulation of environmental contaminants (Yu et al. 2011, Golet and Haines 2001).

RESEARCH QUESTIONS

This study will focus on three key questions: 1) What is the current status (population estimate, population structure, specifically connectivity within and between tributaries) of both species along the Yellowstone River? 2) How might anthropogenic influences such as, decreases in instream flow and water quality, as well as, increased algae in rivers and invasive plant species on nesting beaches affect their habitat use and vital rates? 3) What are the heavy metal contaminant loads for both species and what factors may determine exposure?

RESEARCH APPROACH AND METHODS

Through an intensive tagging effort (Ousterhout and Semlitsch 2014, White and Burnham 1999) the population status, population connectivity, demographic composition and heavy metal composition and concentrations between the main stem of the Yellowstone River and other tributaries over 400 kilometers in length will be assessed (Turnquist et al. 2011, Green et al. 2010). Spiny softshell turtles and snapping turtles will be captured using standard turtle hoop traps baited with fish (Mali et al. 2014). Weight and measurements of the width and length of the carapace will be taken to the nearest millimeter. Blood will be drawn with a 22-gauge needle from the dorsal or ventral coccygeal vein (Perpinan et al. 2010). Turtles will then be marked using 12.5mm Biomark PIT tags. Collected blood samples will be analyzed at the UM Biogeochemistry lab in Missoula for contaminant concentrations. Blood sampling and tagging is approved by renewable MFWP permits to K. Ostovar and collaborators (IACUC FWP04-2015 expires 12/2017, Wildlife Capture Permit #2016-082). In 2018 and 2019, the mark-recapture work will be supplemented by radio-telemetry, and habitat assessments to investigate how current and future habitat changes (invasive plants, algae, flow) may influence key breeding or overwintering areas.

TIMELINE - THE MAJORITY OF THE FIELD WORK OCCURS BETWEEN JUNE AND SEPTEMBER.

1. In 2015 and 2016, work focused mainly on tagging and drawing blood from (n = 296) spiny softshell turtles as well as starting to survey and capture snapping turtles.
2. In 2017 the plan is to increase the intensity of the tagging in order to increase marking and recapture rates to derive population estimates across multiple rivers and streams. Limited blood draws will occur to wrap up the heavy metal portion of the study and habitat assessments will begin.
3. In 2018/2021 we will augment capture efforts with radio-tracking and possibly instream PIT tag readers to assess turtle movements between areas, and continue to assess habitat conditions and population status.

PREDICTED OUTCOMES, BENEFITS

By expanding our knowledge of habitat use, population structure, and status of these turtle species we can help inform state managers and help address two of the five Key Recommendations in the State Water Plan. In addition managers will be able to more accurately assess the ecological impacts associated with future oil spills if we have critical baseline data on populations and methods for assessing contaminant loads. This study will provide much needed information on heavy metal contaminants in a number of water bodies in the Yellowstone watershed. Possibly more importantly is establishing baseline heavy metal levels in these two species of turtles in order to document changes in exposure related to industrial activity or mining. There are several points under "Key Recommendation #4 Ecological Health and Environment" that will be examined. These include the effects of various instream flow conditions on the status of turtle populations and assessing the importance of connectivity within stream and riparian systems. In addition, this research will help determine the frequency, magnitude, timing and duration of high flows and low flows needed to maintain the natural ecological functions of rivers and streams as they relate to spiny softshell and snapping turtles on different river and creek systems along the Yellowstone River. Finally, a better understanding of the negative impacts related to invasive species like Tamarisk on turtle nesting beaches may lead to improvements in invasive species management or related water flow regimes. We expect several publications related to our three key questions in the next several years, starting with the heavy metal analysis.

LITERATURE CITED

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Coleman, Kathleen

From: John Bradley <jbradley@mtwf.org>
Sent: Monday, October 31, 2016 4:03 PM
To: Natural Resource Damage Program
Subject: Yellowstone Restoration Plan Comment

October 31, 2016

Natural Resource Damage Program

PO Box 201425
Helena, MT 59620-1425

Attn: Yellowstone Restoration Plan

The Montana Wildlife Federation (MWF) is Montana's oldest, largest and most effective conservation organization. Since 1936, we've led efforts to protect Montana's abundant fish and wildlife, our natural lands and waters, and public access for hunting, fishing, and other outdoor recreation.

Our thousands of members hunt and fish on the streams and rivers of Montana, and they understand personally the value of these waterways for fish and wildlife, habitat, and outdoor recreation. As a hunting and fishing based conservation organization, we care about the restoration and management of the effected Yellowstone River. Please consider our below recommendations for the Yellowstone Restoration Plan for the ExxonMobil Pipeline Company Yellowstone River Oil Spill.

On July 1, 2011, a 12-inch diameter pipeline (Silvertip Pipeline) owned by ExxonMobil Pipeline Company ruptured near Laurel, Montana, resulting in the discharge of crude oil into the Yellowstone River and floodplain. The discharge is estimated to have been approximately 63,000 gallons of oil. The discharge occurred during a high-flow event, affecting approximately 85 river miles and associated floodplain. Oil from the spill, along with the cleanup activities, harmed natural resources including fish and other aquatic organisms, birds, wildlife, large woody debris piles, aquatic habitat, terrestrial habitat, recreational use, and the services provided by these natural resources.

We appreciate the hard work by the Montana Department of Justice and federal officials to negotiate compensation for the damage wrought by the spill, but we believe that the \$12 million is not sufficient to fully

restore the river and floodplain from the damage caused by the spill. With a lack of sufficient funds, MWF believes that only a few projects can be pursued and fully completed. C

MWF would like part of the settlement money to go to Montana Fish, Wildlife and Parks to conduct a study of what is in the river and riparian areas. Documentation of the biota in and along the river would help Montana Fish, Wildlife and Parks as well as other agencies with management prescriptions. Once the baseline biota and habitat is established, the agency can set goals and design strategies to improve or remediate the problems. This would be beneficial and could serve as a baseline to measure remediation and for comparison, if a future incident involving the river and floodplain were to occur. M

MWF believes that the bulk of settlement dollars should be spent on the restoration of terrestrial, riparian, and riverine habitats. This includes pursuing conservation easements or fee title land acquisitions to protect and restore the terrestrial and riparian areas, as well as the cottonwood bottomlands and areas with complex understory for nesting birds. Restoration should also take place on the properties within and adjacent to BLM and state lands. We would also like to see restoration work done to control invasive woody and plant species and replacement with native species on BLM and state-owned lands and islands in the affected area. Finally, MWF would like to see fish passage improvements in Yellowstone River tributaries and river function restoration by removing flanked riprap from mid-channel areas and blockages from side channels to improve connectivity. A

Lastly, under the Recreational Human Use damage category, MWF would like to see the preservation and maintenance of Fishing Access Sites along the affected area of the Yellowstone River. We believe that this should be prioritized over improving urban fishing sites at Laurel Ponds and Lake Josephine. These areas were not as severely impacted by the oil spill compared to sites along the Yellowstone River. G C

Thank you for considering our recommendations for the Yellowstone Restoration Plan. This section of river and lands are extremely important for sportsmen in Montana. We appreciate your dedication to the restoration of the river and floodplain in hopes of returning the area to pre-spill conditions.

Sincerely,

Dave Chadwick

Executive Director

Montana Wildlife Federation

PO Box 1175

Coleman, Kathleen

From: John Bradley <jbradley@mtwf.org>
Sent: Monday, October 31, 2016 3:49 PM
To: Natural Resource Damage Program
Subject: Yellowstone Restoration Plan Comment
Attachments: MWF Comment Letter - Yellowstone River Restoration Plan.pdf

Natural Resource Damage Program,

Please find the Montana Wildlife Federation's comment letter on the Yellowstone River Restoration Plan attached.

Thanks,

John Bradley
Eastern Montana Field Representative
Montana Wildlife Federation
jbradley@mtwf.org
C: 320-583-8461



Protecting Montana's wildlife,
land, waters and hunting & fishing
heritage for future generations.

October 31, 2016

Natural Resource Damage Program
PO Box 201425
Helena, MT 59620-1425

Attn: Yellowstone Restoration Plan

The Montana Wildlife Federation (MWF) is Montana's oldest, largest and most effective conservation organization. Since 1936, we've led efforts to protect Montana's abundant fish and wildlife, our natural lands and waters, and public access for hunting, fishing, and other outdoor recreation.

Our thousands of members hunt and fish on the streams and rivers of Montana, and they understand personally the value of these waterways for fish and wildlife, habitat, and outdoor recreation. As a hunting and fishing based conservation organization, we care about the restoration and management of the effected Yellowstone River. Please consider our below recommendations for the Yellowstone Restoration Plan for the ExxonMobil Pipeline Company Yellowstone River Oil Spill.

On July 1, 2011, a 12-inch diameter pipeline (Silvertip Pipeline) owned by ExxonMobil Pipeline Company ruptured near Laurel, Montana, resulting in the discharge of crude oil into the Yellowstone River and floodplain. The discharge is estimated to have been approximately 63,000 gallons of oil. The discharge occurred during a high-flow event, affecting approximately 85 river miles and associated floodplain. Oil from the spill, along with the cleanup activities, harmed natural resources including fish and other aquatic organisms, birds, wildlife, large woody debris piles, aquatic habitat, terrestrial habitat, recreational use, and the services provided by these natural resources.

We appreciate the hard work by the Montana Department of Justice and federal officials to negotiate compensation for the damage wrought by the spill, but we believe that the \$12 million is not sufficient to fully restore the river and floodplain from the damage caused by the spill. With a lack of sufficient funds, MWF believes that only a few projects can be pursued and fully completed.

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MWF would like part of the settlement money to go to Montana Fish, Wildlife and Parks to conduct a study of what is in the river and riparian areas. Documentation of the biota in and along the river would help Montana Fish, Wildlife and Parks as well as other agencies with management prescriptions. Once the baseline biota and habitat is established, the agency can set goals and design strategies to improve or remediate the problems. This would be beneficial and could serve as a baseline to measure remediation and for comparison, if a future incident involving the river and floodplain were to occur.

M

MWF believes that the bulk of settlement dollars should be spent on the restoration of terrestrial, riparian, and riverine habitats. This includes pursuing conservation easements or fee title land

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Protecting Montana's wildlife,
land, waters and hunting & fishing
heritage for future generations.

acquisitions to protect and restore the terrestrial and riparian areas, as well as the cottonwood bottomlands and areas with complex understory for nesting birds. Restoration should also take place on the properties within and adjacent to BLM and state lands. We would also like to see restoration work done to control invasive woody and plant species and replacement with native species on BLM and state-owned lands and islands in the affected area. Finally, MWF would like to see fish passage improvements in Yellowstone River tributaries and river function restoration by removing flanked riprap from mid-channel areas and blockages from side channels to improve connectivity.

Lastly, under the Recreational Human Use damage category, MWF would like to see the preservation and maintenance of Fishing Access Sites along the affected area of the Yellowstone River. We believe that this should be prioritized over improving urban fishing sites at Laurel Ponds and Lake Josephine. These areas were not as severely impacted by the oil spill compared to sites along the Yellowstone River.

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Thank you for considering our recommendations for the Yellowstone Restoration Plan. This section of river and lands are extremely important for sportsmen in Montana. We appreciate your dedication to the restoration of the river and floodplain in hopes of returning the area to pre-spill conditions.

Sincerely,

Dave Chadwick
Executive Director
Montana Wildlife Federation
PO Box 1175
Helena, MT 59624

Coleman, Kathleen

From: City Mayor <citymayor@laurel.mt.gov>
Sent: Monday, October 31, 2016 11:42 PM
To: Natural Resource Damage Program
Subject: Yellowstone restoration plan comment

I along with our city Council and area residents were hoping that this plan would include more remediation work to the Laurel Riverside Park area. The park as it stands, has areas within the river area that are historical treasures to the state and county and city with damage from flooding and repairs to the Exxon line that will never be the same for our residents. Laurel has lost the full use of our park and her historical buildings. Civic groups cannot use those buildings to this day due to damage from flooding and our city council, myself as Mayor and city staff are reluctant to allow our public citizens to use the park to the degree it was being used before the flood and damage to the lines and subsequent fuel spill.

Our historic buildings once used by civic groups, are locked up due to water damage and the fear of mold issues, as repairs are too costly for the residents and the city to replace to what it was before the flood and subsequent fuel spill.

Please consider our issue as to what remediation we would like to see done to get our residents back to what we had before the flood which caused the Exxon spill, and left our town with damage that we cannot repair on our own.

Thank you, for your time.

Sincerely,
Laurel Mayor,
Mark A. Mace

Sent from my iPad

Coleman, Kathleen

From: Dana <dlariviere@ourmontana.org>
Sent: Saturday, October 29, 2016 1:45 PM
To: Natural Resource Damage Program
Cc: 'Dana'
Subject: "Yellowstone restoration plan comment"
Attachments: EPSON002.PDF
Importance: High

Hello,

I am writing on behalf of Our Montana. Our Montana was created over 20 years ago. We work collaboratively with other groups to participate in preserving the scenic, historic and recreational resources of Montana's parks, rivers, historic sites and trails. Our Montana's Boards of Directors, volunteers, staff, collaborative organizations and strategic partnerships speaks to the success of this small but powerful nonprofit. We are a broad sweep of like-minded individuals from all walks of life who cherish the state of Montana. We work to steward irreplaceable outdoor and historic values for ourselves and future generations. Our staff Members are professional people and volunteers with extensive hands on experience in land management, climatology, business, conservation and other related fields. The members of Our Montana's Board of Directors are prominent professional people with sound credentials, representing the broad spectrum of experience.

We hope that Our Montana can be included in The Yellowstone Restoration plan, we are local and have a presence in the community. It would restore community faith to see a local, 20 year old, thriving nonprofit like Our Montana receive funds to continue the work we do on our current projects. The Yellowstone River has always been our top priority and we have a wonderful 2017 planned with the theme "Love the Yellowstone" as our main effort. If you get a moment, please visit our website at www.OurMontana.org to see what Our Montana is all about.

Attached are some of our planned projects and the amount that each would cost. We hope you will take us into consideration and help us in our efforts.

Thank you in advance,

Dana Larivière

Our Montana Executive Director

Office- 406-259-4600

Cell- 406-200-2091

Fax- 406-259-8352

dlariviere@ourmontana.org

<https://www.facebook.com/ourmontana>

Proposed Settlement and Draft Restoration Plan Comments

From Our Montana

Our Montana is in basic agreement with the types of projects outlined in the Restoration Plan.

A

We suggest additional funding for project that enhance public access, recreation and habitat improvement as follows:

Idea 1 - Explore Yellowstone River App

Our Montana has made significant progress on developing a web site intended to assist Montanans and visitors enjoy and explore the almost 700 miles of the Yellowstone River. The web site provides detailed information on:

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- Develop and undeveloped public access sites of Fish Wildlife and Parks and others
- Museums along the Yellowstone River
- Location of historic features and sites along the Yellowstone River
- Public land along and within the Yellowstone River
- Location of excellent birding areas along the Yellowstone River
- River safety guidelines
- Commercial recreation providers along the Yellowstone River (ie boat rentals, bait and fly shops)

This site is now available on the web at exploreyellowstoneriver.org. Work continues on the site. The project need is to develop an app to make the web site highly available to travelers and boaters while they are in the Yellowstone River corridor. Estimated cost \$15,000.

Idea 2 - Identifying Public Islands

Over the past decade Our Montana has examined the ownership of islands and riparian areas in the Billings vicinity. This has been a test project looking at the fluvial geomorphic changes in the river and that affect in creating new public islands and riparian areas since statehood. These islands often are unclaimed. We have determined that there exists a great public estate in and long the Yellowstone that at the present time is unavailable to the public. In the Billings area we have found almost 300 acres in public ownership. Some of this land we have studied provides new access to the Yellowstone, examples are what we now call Clarks Crossing Island and the island next to Mystic Park which is called Indian Crossing.

G

The project idea is to complete the detailed studies of the islands between the City of Laurel and the mouth of the Big Horn River. This work can be completed by the DNRC, BLM or Our Montana has the capability of completing these studies with the cooperation of DNRC and BLM. Estimated cost \$50,000.

Idea 3 - New Fishing Access Site

There is a great need for a Fishing Access Site at the Blue Creek Bridge. There is an excellent location with access to Blue Creek Road below the Yellowstone Bridge. A FAS site here would provide for short floats adjacent to Billings and Laurel. This project has been looked at in the past and needs to be explored again.

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Idea 4 -Yellowstone Environmental Research

Rocky Mountain College and its Yellowstone River Research Center have been accomplishing serious research on the Yellowstone River. The Yellowstone River Research Center is a multidisciplinary research institute composed of geologists, ecologists, ecologists, wildlife biologists, geographers, and social scientists. A unique feature of the Center is the strong emphasis that they place on involving undergraduate students in their projects to better understand the dynamics of the Yellowstone River and its ecological systems. They also enlist their citizen advisory board in evaluating and selecting research projects.

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The Center has had several projects that have had positive affect in understanding multiple aspects of the Yellowstone's ecology, for example, projects on Osprey, turtles and fish bypass of irrigation structures. They also have an annual river cleanup program with cooperation from business, nonprofits and many volunteers. The cleanup program has removed tons of metal and trash from the river channel over the past years. Much information can be found on their web site

<http://yellowstoneriver.weebly.com/>

We recommend a matching fund to be held at the Yellowstone River Research Center, or some appropriate agency, for sponsorship of multiyear research projects. \$50,000

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Idea -5 Flea Beatle Introduction

Public islands and public riparian areas along the Yellowstone are infested with many invasive plants. Invasives include Russian Olive, Salt Cedar, Spotted Knapweed and Leafy Spurge. Little control of the epidemic is taking place at the present time. We propose a cooperative program to release Flea Beetles in public areas that are infested with Leafy Spurge. Flea Beetles have been proven to be an effective biological control. The program would involve purchase of Flea Beetles which would be spread by volunteers at the appropriate time to pre select areas. \$25,000

N

Idea 6 - Dover Park Water Remediation

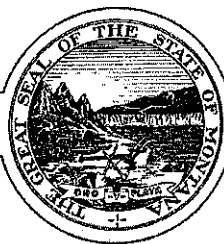
John Dover Park is being developed by the Yellowstone River Parks Association. The concept plan for this major new recreation park along the Yellowstone River includes a major water remediation lake. This recreation lake will have the purpose of cleaning up storm water before it inters the Yellowstone River

H

and outdoor recreation. The lake would be developed by the City of Billings in cooperation with Yellowstone River Parks Association. The lake's function would be similar to Shiloh Ponds developed by the City. We believe design should be started before gravel mining is complete to enhance development of the lake. We don't have the information to propose a budget for this.

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
Southern Land Office

10



STEVE BULLOCK, GOVERNOR

STATE OF MONTANA

PHONE: (406) 247-4400
FAX: (406) 247-4410

1371 RIMTOP DRIVE
BILLINGS, MT 59105

Date: October 28, 2016

To: Montana Department of Justice

Subject: Comments on Yellowstone Oil Spill Draft Restoration Plan

From: Area Manager, Matt Wolcott

To Whom It May Concern:

The Department of Natural Resources and Conservation would like to provide the following comments regarding the proposed Oil Spill Draft Restoration Plan.

The DNRC supports the efforts made by the State of Montana to seek reimbursement for damages caused by the oil spill. Whenever possible, we would like to see the funds support properties and agencies who were directly impacted by the spill. Projects on lands, or in support of agencies who were directly and significantly impacted, should be given priority for funding over properties and entities who may have suffered indirect or secondary impacts.

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The DNRC is in the process of identifying properties that we may acquire that could provide additional income for the Trust, provide additional recreational use opportunities, and which could potentially provide additional access to currently held lands along the Yellowstone River. The DNRC would like to work with the selection committee to put forward a proposal for acquisition of such a property. This effort could also involve quiet title action on various state owned lands along or within the Yellowstone River.

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The DNRC would like to have a local representative on the committee if space allows.

C

Feel free to contact us directly if you have any questions. Thanks for your efforts and the opportunity to comment.

Matt Wolcott

Area Manager, DNRC Southern Land Office

Stickney, Alicia

From: Wendy Weaver <wweaver@montanaaquaticresources.org>
Sent: Friday, October 28, 2016 8:48 AM
To: Stickney, Alicia
Subject: Fwd: NRDP Yellowstone Restoration Plan Comments from Montana Aquatic Resources Services (MARS)
Attachments: NRDP Response Letter_20161012.pdf; ATT00001.htm

Alicia, I copied you below at the wrong email so now forwarding to the correct one.
 Wendy

Begin forwarded message:

From: Wendy Weaver <wweaver@montanaaquaticresources.org>
Subject: NRDP Yellowstone Restoration Plan Comments from Montana Aquatic Resources Services (MARS)
Date: October 27, 2016 at 2:57:47 PM MDT
To: NRDP@mt.gov, astickney@mt.gov

Dear Alicia-

Thank you again for your very informative presentation in Billings on October 12th and again on October 25th at the MWCC Conference. It was great to meet you and learn more about the Yellowstone River NRD Program and roll out of restoration project funding. I've attached a copy of the letter that we also provided during comment in Billings for your consideration.

To recap, MARS appreciates an opportunity to deliver projects addressing 8 of the 12 preferred restoration alternatives, including:

- Acquiring terrestrial/riparian bottomland to conserve and restore terrestrial habitat with some acquisitions focusing on habitat requirements for injured birds
 - Acquiring and restoring terrestrial/riparian habitat
 - Controlling invasive woody species on state and federal lands
 - Acquiring channel migration or other easements or fee title land acquisitions to provide areas for large woody debris recruitment
 - Removing flanked riprap from the river
 - Removing side channel blockages
 - Providing fish passage around fish barriers
 - Restoring and stabilizing river banks using soft bank restoration techniques
-

Additionally, MARS proposed projects will meet all of the following Oil Pollution Act primary requirements:

- Relate to the natural resource injuries and services losses identified in the Draft Restoration Plan
- Cause no additional adverse impact
- Be cost-effective
- Demonstrate likelihood of success
- Benefit multiple resources
- Not harm public health and safety

Your presentation highlighted the value and need of utilizing existing plans such as the Yellowstone River Cumulative Effects Analysis and Recommended Practices, Riverfront Park Master Plan, BLM Billings Field Office Resource Management Plan, and others. I'd like to add that MARS Yellowstone River Channel Migration Easement (CME) Program synthesized information from sources like these to prioritize specific sites for restoration projects such as but not limited to just CMEs. Riprap removal, woody debris recruitment, controlling invasive woody plants, soft bank stabilization, and acquiring fee parcels are all related outcomes from our CME prioritization work. All are examples of management activities that MARS can and will integrate into its long-term protection projects especially within the footprint of current and future CMEs. Moreover, through implementation of MARS Statewide In Lieu Fee Mitigation Plan, MARS has developed three compensation planning frameworks for the Upper, Middle and Lower Yellowstone Watersheds which synthesized information from these plans and multiple sources. Using this information, the past three years of MARS' field work including contacting landowners, reaching out to Conservation Districts, and working with partners, such as the Northern Great Plains Joint Venture. MARS has developed all the necessary resources to deliver the NRDP projects and positioned to deliver these projects in a timely manner if funding is allocated for this program.

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In delivering its first two CMEs, MARS has formalized its partnership with the Montana Land Reliance and The Nature Conservancy of Montana, the state's two largest private land trusts. This partnership is the sole source for CME delivery along the Yellowstone River with one easement closed in April of this year and the second that will close in December. Since the Settlement was announced, MARS has again confirmed MLR and TNC's desire to partner with MARS in delivering the NRDP projects involving long-term land protection.

Finally, while MARS presented an MOU to YRCDC in July 2014 to formalize our partnership, which they declined to endorse, we have since then, at their recommendation, worked with the individual conservation districts in the valley to identify potential CME-interested landowners. Wherein either YRCDC or the individual Conservation Districts desire to work with MARS to help deliver conservation easements, deed restrictions, or short term agreements with landowners, we stand ready to work with them for the betterment of the River and its floodplain connectivity and health.

B

Thank you again for this opportunity. We look forward to working with you in this vital new program!

Sincerely,
Wendy

Wendy Weaver
Executive Director
Montana Aquatic Resources Services
Office: (406) 404-1166 Cell: (406) 579-2355
www.montanaaquaticresources.org

Coleman, Kathleen

From: bra_col@bresnan.net
Sent: Wednesday, October 26, 2016 8:29 AM
To: Natural Resource Damage Program
Cc: 'ewolff@bridgersteel.com'
Subject: Yellowstone restoration plan project

I would like to voice my agreement with the comments below from Eric Wolf. Thank you for giving us the opportunity to comment.

Brad Cole

Billings, M

Hi,

First off I would like to thank all those involved in securing the funds for this restoration plan and also a thanks to those who put this restoration plan together. I have been a very loyal fishermen to the Yellowstone River downstream of Billings for the last 11 years and understand this section of the river and how it changes very well. This was a very well-crafted document, I have comments on three specific sections:

<![if !supportLists]>1. <![endif]>**Large Woody Debris Piles:** I am in agreement that all contaminated woody debris needs to be removed so that it does not continue to contaminate other parts of the river as it moves around each spring during high water. However using funds to take un-contaminated woody debris piles that are up stream and move them downstream is something that the river will do on its own over the next 2-3 years and could do it in as little as 1 year with the right snowpack and spring rain. I have seen these woody debris piles move each and every year, so I think diverting the funds to move clean woody debris piles downstream would be a good idea as the river will do this for us in about the same amount of time it will take to complete this restoration plan.

<![if !supportLists]>2. <![endif]>**Riverine Aquatic Habitat:** Specifically to fish passages I think this is a great idea however before fixing tributary passages we need to fix the diversion dams that are on the Yellowstone as right now our fish are trapped and cannot get around those dams to use the tributaries. The fish in the Yellowstone river below the Huntley diversion dam and downstream in the river are stuck in those sections between these diversion dams. We need to fix these passages so our fish can migrate the Yellowstone and then up into the tributaries of the Yellowstone. If the diversion dams are not fixed before the tributaries the only fish to benefit of the fish passages in the tributaries are the fish that are “trapped” in that section where the tributary meets the Yellowstone.

<![if !supportLists]>3. <![endif]>**Recreation Human Use:** There was no “loss of use” to Laurel Pond or Riverfront Park during the Exxon spill. There was however closures to many of our accesses to the

Yellowstone and then 3 years of very poor fishing due to the spill, so I am against any monies being spent on Laurel Pond and Riverfront Park.

I love the idea on another motorized boat access to the Yellowstone River, however South Billings Blvd. is not the best spot as you have Coulson Park which has a motorized boat ramp 4 miles downstream and Duck Creek which is 6 miles upstream. Jet Boat users of the Yellowstone River can easily run 10-15 miles upstream or downstream of a motorized landing, so there is no need for one at South Billings when you have Duck Creek and Coulson already in place. There is also plenty of access to the upper Yellowstone. However Bundy Bridge and Manual Lisa on the Big Horn are the only motorized boat landings below Coulson Park that can float a boat year round, that is 60+ river miles with only 2 good access ramps for motorized boats. Road 18, Gritty Stone, and Captain Clark will only float a boat during higher water. I would propose an access below the Huntley diversion dam. This ramp would also be important if something like this were to happen again as there is no way to access this section of the river in an emergency situation.

Thank you for taking the time to allow all of us to comment on this restoration plan. I am very excited to see the completion of this plan and the benefits it will provide to the eco-system of the Yellowstone River that was affected. Please feel free to contact me for further comment or questions.

Eric Wolff | Operations & Inventory Manager
Big Sky Coil LLC



**YELLOWSTONE RIVER
CONSERVATION DISTRICT COUNCIL**
1371 Rintop Drive
Billings, MT 59105
Phone: 406-247-4412

♦
Dan Rostad
Coordinator
Dan@

YellowstoneRiverCouncil.org

♦
**CONSERVATION DISTRICT
COUNCIL MEMBERS**

♦
Don Youngbauer, Chairman
ROSEBUD COUNTY/MACD
Phone: W 406-346-2131
H 406-346-2935

♦
Bob Hector, Vice-Chairman
YELLOWSTONE COUNTY
406-252-4332

♦
CUSTER COUNTY, FISCAL AGENT
Walter Rolf

♦
DAWSON COUNTY
Kenny Nemitz

♦
PARK COUNTY
Jerry O'Hair

♦
PRAIRIE COUNTY
Rick Herman

♦
RICHLAND COUNTY
Shawn Conradson

♦
STILLWATER COUNTY
Steve Story

♦
SWEET GRASS COUNTY
Paul Gilbert

♦
TREASURE COUNTY
Phil Fox

♦
MCKENZIE COUNTY, ND
Orvin Finsaas

♦
**YRDC RESOURCE ADVISORY
COMMITTEE, Chair**
John Moorhouse

♦
yellowstonerivercouncil.org

♦
*"Working relationships yield a
shared vision..."*

October 24, 2016

Natural Resource Damage Program
Attn: Yellowstone Restoration Plan
Post Office Box 201425
Helena, Montana 59620-1425

RECEIVED

OCT 28 2016

**NATURAL RESOURCE
DAMAGE PROGRAM**

Attn: Doug Martin, Restoration Program Chief
Alicia Stickney, Environmental Science Specialist

Dear Doug and Alicia,

First, let me congratulate you and your colleagues with your success in negotiating a settlement for natural resource damages to the Yellowstone River associated with the 2011 ExxonMobil pipeline oil spill. Your diligence and hard work will be appreciated for generations to come.

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Let me also express our gratitude for citing the Yellowstone River Conservation District Council (YRDC) and the US Army Corps' landmark 2016 Yellowstone River Cumulative Effects Assessment (CEA) scientific study and recommended practices. This recently completed study was the result of more than a decade of commitment by Montanans to provide a comprehensive river study compiling definitive scientific information on subjects including hydrologic, biological, physical and socio-economic impacts of human activity on the full length of the Yellowstone River.

The CEA included the development of Channel Migration Zone mapping that can be used to prioritize easement areas. We also generated riparian mapping that, in conjunction with mapped areas of active channel migration, will identify those riparian areas most likely to contribute large wood to the river. The CEA included mapping of blocked side channels, mapping of bank armor through 2011, and identification of flanked armor segments. All of that information can be compiled specifically with regard to NRD restoration objectives.

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The YRDC and its Technical Advisory Committee are very familiar with these datasets and could cost-effectively generate project prioritizations for the affected areas. We have all of the data in-house.

As you consider specific restoration projects, we encourage you to prioritize potential projects on science-based principles that will optimize improvements to the river.

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We also encourage you to consider cost efficient and effective approaches to maximize settlement dollars. As an example, if you are considering river channel migration zone land easement acquisitions, you may want to consider deed restrictions in comparison with conservation easements. Deed restrictions are easier to establish and less cumbersome than conservation easements which could be very expensive and time-consuming.

E

Finally, we encourage you to actively engage with local agencies, organizations, and landowners to identify future restoration projects during the research and investigation phase, as well as during restoration project implementation.

C

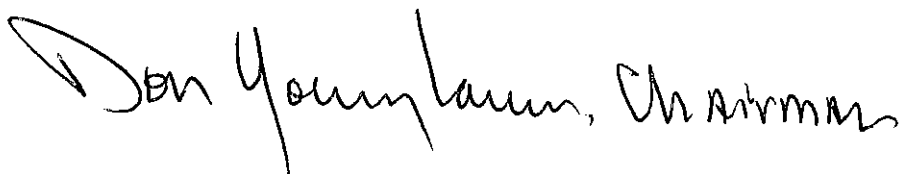
The Yellowstone River Conservation District Council is ready and able to assist you and your staff at any time and has the available capacity to provide you with project management and technical services as needed. We have good relationships with contractors who worked on the CEA, and have a fiscal routing structure that has proven effective over 15 years of the CEA.

B

Our professional/technical contractors could assist you in developing project prioritization opportunities, including scope of work development, procurement, management, and oversight. We are also available to assist with public outreach and building partner coalitions.

Please feel free to call me if you have any questions or comments.

Very sincerely,

A handwritten signature in black ink that reads "Don Youngbauer, Chairman". The signature is written in a cursive, flowing style.

Don Youngbauer, Chairman

Received via
email 10/24/16

14

Via U.S. mail and email to NRDP@mt.gov

October 24, 2016

RECEIVED

OCT 27 2016

**NATURAL RESOURCE
DAMAGE PROGRAM**

ATTN: Yellowstone Restoration Plan
Natural Resource Damage Program
P.O. Box 201425
Helena, MT 59620-1425

RE: Yellowstone Restoration Plan Comment

Ladies and Gentlemen:

Having been born and raised in Montana, I consider myself of a steward of public lands. My wife and I have donated property for the Duck Creek fishing access, and I am the president of Yellowstone River Parks Association—an organization that creates public parks along the Yellowstone River.

I attended the meeting held October 12, 2016, at Montana Fish, Wildlife and Parks' office. My perception of the meeting is that the State has already decided which projects will be funded, and the meeting was just to appease the public.

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While I have no problems with State funding for maintaining existing fishing access along the spill corridor, tax dollars have already been set aside through hunting and fishing licenses as well as vehicle registration.

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Furthermore, the administrators of this settlement live in Helena. Since they are not part of the Billings' community, they should not have a final say on how these monies are spent. It needs to be a joint public private partnership.

C

I would request that the judge approving this agreement insist that the public have more input, not just State and Federal agencies.

Sincerely,



Darryl Wilson
8522 S. Frontage Rd.
Billings, MT 59101

Coleman, Kathleen

From: JEROME FACHNER <JCFACHNER@msn.com>
Sent: Monday, October 24, 2016 5:31 PM
To: Natural Resource Damage Program
Subject: Yellowstone restoration plan comment
Attachments: Yellowstone restoration plan comment.docx

Please see attachment.

Thanks,
Jerome Fachner
Sent from Mail for Windows 10

I am writing in reference to the Billings Gazette article about restoration of the Yellowstone River after the 2011 flood and Exxon oil spill. I understand there was a public meeting on Wednesday, October 12, 2016. If I had known about the meeting I would have attended.

I own the property at 101 North River Road just a short distance from the Exxon oil spill. The full legal description is: S13, T02 S, R24 E Section 13, consisting of 10.92 acres. In addition to the 2011 flood the Yellowstone River flooded again in 2014 and as a result approximately 40 feet of the Yellowstone river bank eroded into the river on the south end of my property parallel to my road. My neighbor to the south had his property completely split in two by the erosion. If we have another flood or if the river bank erodes any further both of us will lose access to our properties. Presently we are driving within 15 feet of the river bank. Any further erosion of the river bank at all will make it unsafe to drive. I understand that at one time there was a levy in that area of the river to help control the erosion, but it has not been maintained and is completely washed away.

I realize that it is virtually impossible to stop the Yellowstone River from flooding, although I believe there are steps that could be taken to protect private property along the river. I have already taken steps to protect the house on the property by adding a new concrete wall and adding a berm to protect the house, and removed all living quarters from the basement. Even those measures would not stop the effects of a severe flood.

I am not asking for any monetary compensation or have I received any. I simply want the river bank stabilized to make it safe and so I do not lose access to my property.

My son and two year old grandson live

on the property. My son is disabled and unable to work, I do not want to worry about them losing access to the property or worse the river bank collapses while they are driving to or from the property.

It is extremely important that a portion of the Yellowstone River on the south end of my property be stabilized by the use of riprap or whatever means it takes to stabilize the bank. It makes sense that the property and people that were affected by the Exxon oil spill and flood should be the ones that should be given priority in the use of the funds that are available.

I have in my file google photos of the property in addition I have digital photos of the most recent flood in 2014 showing the erosion and high water. I will be happy to share them with anyone interested.

In addition any information that I have I will make available to anyone.

I would like some sort of acknowledgement that you have received this request. My name, mailing address, email address and phone numbers are listed below.

Jerome O. or Carol Ann Fachner
2106 S. 48th St. W
Billings, Mt. 59106

Email: jcfachner@msn.com

Phones: Home 406 655 9451
Cell 406 671 0888
Cell 406 671 8186

Coleman, Kathleen

From: Eric Wolff <eric.wolff@bigskycoil.com>
Sent: Sunday, October 23, 2016 9:33 AM
To: Natural Resource Damage Program
Cc: 'Brad Cole'
Subject: Yellowstone restoration plan comment

Importance: High

Hi,

First off I would like to thank all those involved in securing the funds for this restoration plan and also a thanks to those who put this restoration plan together. I have been a very loyal fishermen to the Yellowstone River downstream of Billings for the last 11 years and understand this section of the river and how it changes very well. This was a very well-crafted document, I have comments on three specific sections:

1. **Large Woody Debris Piles:** I am in agreement that all contaminated woody debris needs to be removed so that it does not continue to contaminate other parts of the river as it moves around each spring during high water. However using funds to take un-contaminated woody debris piles that are up stream and move them downstream is something that the river will do on its own over the next 2-3 years and could do it in as little as 1 year with the right snowpack and spring rain. I have seen these woody debris piles move each and every year, so I think diverting the funds to move clean woody debris piles downstream would be a good idea as the river will do this for us in about the same amount of time it will take to complete this restoration plan.
2. **Riverine Aquatic Habitat:** Specifically to fish passages I think this is a great idea however before fixing tributary passages we need to fix the diversion dams that are on the Yellowstone as right now our fish are trapped and cannot get around those dams to use the tributaries. The fish in the Yellowstone river below the Huntley diversion dam and downstream in the river are stuck in those sections between these diversion dams. We need to fix these passages so our fish can migrate the Yellowstone and then up into the tributaries of the Yellowstone. If the diversion dams are not fixed before the tributaries the only fish to benefit of the fish passages in the tributaries are the fish that are "trapped" in that section where the tributary meets the Yellowstone.
3. **Recreation Human Use:** There was no "loss of use" to Laurel Pond or Riverfront Park during the Exxon spill. There was however closures to many of our accesses to the Yellowstone and then 3 years of very poor fishing due to the spill, so I am against any monies being spent on Laurel Pond and Riverfront Park.

I love the idea on another motorized boat access to the Yellowstone River, however South Billings Blvd. is not the best spot as you have Coulson Park which has a motorized boat ramp 4 miles downstream and Duck Creek which is 6 miles upstream. Jet Boat users of the Yellowstone River can easily run 10-15 miles upstream or downstream of a motorized landing, so there is no need for one at South Billings when you have Duck Creek and Coulson already in place. There is also plenty of access to the upper Yellowstone. However Bundy Bridge and Manual Lisa on the Big Horn are the only motorized boat landings below Coulson Park that can float a boat year round, that is 60+ river miles with only 2 good access ramps for motorized boats. Road 18, Gritty Stone, and Captain Clark will only float a boat during higher water. I would propose an access below the Huntley diversion dam. This ramp would also be important if something like this were to happen again as there is no way to access this section of the river in an emergency situation.

Thank you for taking the time to allow all of us to comment on this restoration plan. I am very excited to see the completion of this plan and the benefits it will provide to the eco-system of the Yellowstone River that was affected. Please feel free to contact me for further comment or questions.

Eric Wolff | Operations & Inventory Manager
Big Sky Coil LLC

CONFIDENTIALITY NOTICE: The Information contained in this message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of the message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any release, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the author immediately by replying to this message and delete the original message and attachments.

Coleman, Kathleen

From: Bennett, LeeAnn <lbennett@ku.edu>
Sent: Friday, October 21, 2016 3:54 PM
To: Natural Resource Damage Program
Cc: Bennett, LeeAnn
Subject: Yellowstone restoration plan comment" in the subject line

NRDP@mt.gov,

You really need to set aside a fund of 20% for unforeseen clean-up issues that could crop up down the line. Don't let this company off the hook. They need to pay until the clean up is complete, otherwise Montana will get stuck with the bill for the remaining cleanup. In 1989, the EXXON Valdez ran aground in Alaska, and today there is still oil being seen on the beach. The company paid in excess of 7 Billion to settle all claims, but it clearly wasn't enough, 'cause after 25 years, the job still isn't done. T

It just doesn't seem like 12 million dollars is enough to get every last drop of oil out of the Yellowstone River. And just a few days ago, I heard about another pipeline bursting on this same river. The State of Montana needs to start collecting serious fines from these companies that can't seem to do their jobs without repeatedly spilling huge amounts of oil into our rivers. If there are no laws to cover these incidents, the Montana Legislature better be writing something up, because this is going to keep happening. The only way to make these companies take oil spills seriously is to threaten someone at the top with prison, then you might see a reduction in accidental spills and incompetent management. O

Thank you for this opportunity to express my views. Thank you.

Best Regards,

LeeAnn Bennett
 environmental advocate and concerned American

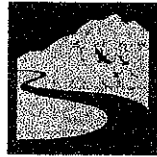
Coleman, Kathleen

From: A C Hayes <alhayes1946@msn.com>
Sent: Thursday, October 13, 2016 8:19 AM
To: Natural Resource Damage Program
Subject: Yellowstone restoration plan comment

Please consider more access to the river for floating, fishing, etc. it is currently very hard to get a raft or kayak in especially at the Duck Creek road. Other access areas would be very appreciated.

Thank you,
Al Hayes
406-373-5557

G



MARS
MONTANA AQUATIC
RESOURCES SERVICES

19

October 12, 2016

RECEIVED

Natural Resource Damage Program
PO Box 201425
Helena, MT 59620-1425

OCT 12 2016

**NATURAL RESOURCE
DAMAGE PROGRAM**

Re: Comment Letter for NRDP Yellowstone Restoration Plan ExxonMobil Pipeline Oil Spill

Dear Natural Resource Damage Program Trustees,

Montana Aquatic Resources Services (MARS) submits the following comments in response to the recently released *Draft Programmatic Damage Assessment and Restoration Plan for the ExxonMobil Pipeline 2011 Oil Spill in the Yellowstone River*. MARS is a 501(c)(3) nonprofit organization founded in 2011 to advance conservation of aquatic resources across Montana. Originally formed to sponsor the Montana In-Lieu Fee Mitigation program, MARS also works to develop innovative non-mitigation approaches to conservation of streams, riparian habitats, and wetlands. Our efforts to further development of the Yellowstone River Channel Migration Easement (CME) program filled a void in conservation of the river that agencies, land trusts, and others had, until that time, only talked about. The funding we bring to the table as well as MARS expertise and nonprofit approach, has resulted in completion of the first-ever CME in Montana in April 2016. Our second CME will close in December of this year.

The CME program concept for the Yellowstone and lower Missouri Rivers in Montana originated with Montana FWP in order to conserve habitat for Pallid Sturgeon and other native fish. Montana Fish, Wildlife and Parks (FWP) entered into an agreement with MARS in 2013 to help deliver the easement program. Following release of the Yellowstone River Cumulative Effects Analysis (CEA) in 2015, MARS found CMEs to be supported by the Yellowstone River Conservation District Council's (YRCDC) recommended practices for conserving the river and its floodplain. MARS CMEs have come together with critical and enthusiastic support of Montana's two largest private land trusts, the Montana Land Reliance and The Nature Conservancy, and FWP. For the Yellowstone River specifically, MARS' CMEs financially compensate landowners along the Yellowstone bank line who voluntarily agree not to stabilize their river bank.

The CME program, utilizing groundbreaking work by YRCDC, the US Army Corps of Engineers, and local CDs, provided vital information and mapping resources to frame up areas for potential conservation. MARS used these data resources in a comprehensive screening and prioritization process to identify specific bend ways and landowners to contact for interest in the program. Screening looked not only at the CEA's channel migration zone mapping but also GIS layers showing the National Wetland Inventory and riparian mapping, Russian olive infestations, side channel blockages, and other potential site priorities.

MARS is positioned along with its partner agencies and nonprofit conservation organizations to deliver projects addressing 8 of the 12 project types, which address NRD-injured resources from the Draft Programmatic Assessment and Restoration Plan. Our CME Program, for example, can not only conserve the river's lateral channel migration but, within those easement areas, provide opportunities to conduct habitat restoration practices for terrestrial, riparian, and aquatic wildlife. Our CME program is a proven success, and is gaining momentum. We have a number of sites identified for CME implementation in the NRD reach extending fifty miles downstream from the oil spill. With NRDP funding, we can and will secure CMEs, deed restrictions, or term contracts to protect channel migration while compensating owners who are now losing land to the river through channel movement and bank erosion. These same areas can provide large woody debris recruitment into the channel to meet that specific need as identified in the settlement.

B

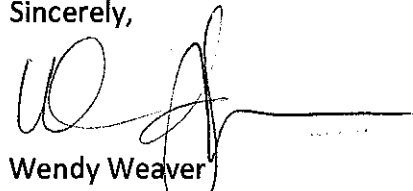
I

E

We appreciate and thank you for consideration of this opportunity to use our expertise, conservation experience, data resources, and network of landowners and conservation partners in collaboration with NRD, YRCDC, local CDs and others to deliver CMEs and habitat restoration practices for the Yellowstone River. We are currently, and will continue to build our network of partners to deliver shovel-ready specific projects so that when funds are received, we can implement our projects as quickly as possible to remediate the oil spill's impacts in a positive and lasting way.

B

Sincerely,



Wendy Weaver
Executive Director

RECEIVED
OCT 12 2016
NATURAL RESOURCE
DAMAGE PROGRAM



Proposed Settlement and Draft Restoration Plan Comments

From Our Montana

Our Montana is in basic agreement with the types of projects outlined in the Restoration Plan.

A

We suggest additional funding for project that enhance public access, recreation and habitat improvement as follows:

Idea 1 - Explore Yellowstone River App

Our Montana has made significant progress on developing a web site intended to assist Montanans and visitors enjoy and explore the almost 700 miles of the Yellowstone River. The web site provides detailed information on:

G

- Develop and undeveloped public access sites of Fish Wildlife and Parks and others
- Museums along the Yellowstone River
- Location of historic features and sites along the Yellowstone River
- Public land along and within the Yellowstone River
- Location of excellent birding areas along the Yellowstone River
- River safety guidelines
- Commercial recreation providers along the Yellowstone River (ie boat rentals, bait and fly shops)

This site is now available on the web at exploreyellowstoneriver.org. Work continues on the site. The project need is to develop an app to make the web site highly available to travelers and boaters while they are in the Yellowstone River corridor. Estimated cost \$15,000.

Idea 2 - Identifying Public Islands

Over the past decade Our Montana has examined the ownership of islands and riparian areas in the Billings vicinity. This has been a test project looking at the fluvial geomorphic changes in the river and that affect in creating new public islands and riparian areas since statehood. These islands often are unclaimed. We have determined that there exists a great public estate in and long the Yellowstone that at the present time is unavailable to the public. In the Billings area we have found almost 300 acres in public ownership. Some of this land we have studied provides new access to the Yellowstone, examples are what we now call Clarks Crossing Island and the island next to Mystic Park which is called Indian Crossing.

G

The project idea is to complete the detailed studies of the islands between the City of Laurel and the mouth of the Big Horn River. This work can be completed by the DNRC, BLM or Our Montana has the capability of completing these studies with the cooperation of DNRC and BLM. Estimated cost \$50,000.

Idea 3 - New Fishing Access Site

There is a great need for a Fishing Access Site at the Blue Creek Bridge. There is an excellent location with access to Blue Creek Road below the Yellowstone Bridge. A FAS site here would provide for short floats adjacent to Billings and Laurel. This project has been looked at in the past and needs to be explored again.

G

Idea 4 -Yellowstone Environmental Research

Rocky Mountain College and its Yellowstone River Research Center have been accomplishing serious research on the Yellowstone River. The Yellowstone River Research Center is a multidisciplinary research institute composed of geologists, ecologists, ecologists, wildlife biologists, geographers, and social scientists. A unique feature of the Center is the strong emphasis that they place on involving undergraduate students in their projects to better understand the dynamics of the Yellowstone River and its ecological systems. They also enlist their citizen advisory board in evaluating and selecting research projects.

M

The Center has had several projects that have had positive affect in understanding multiple aspects of the Yellowstone's ecology ,for example, projects on Osprey, turtles and fish bypass of irrigation structures. They also have an annual river cleanup program with cooperation from business, nonprofits and many volunteers. The cleanup program has removed tons of metal and trash from the river channel over the past years. Much information can be found on their web site

<http://yellowstoneriver.weebly.com/>

We recommend a matching fund to be held at the Yellowstone River Research Center, or some appropriate agency, for sponsorship of multiyear research projects. \$50,000

T

Idea -5 Flea Beatle Introduction

Public islands and public riparian areas along the Yellowstone are infested with many invasive plants. Invasives include Russian Olive, Salt Cedar, Spotted Knapweed and Leafy Spurge. Little control of the epidemic is taking place at the present time. We propose a cooperative program to release Flea Beatles in public areas that are infested with Leafy Spurge. Flea Beatles have been proven to be an effective biological control. The program would involve purchase of Flea Beatles which would be spread by volunteers at the appropriate time to pre select areas. \$25,000

N

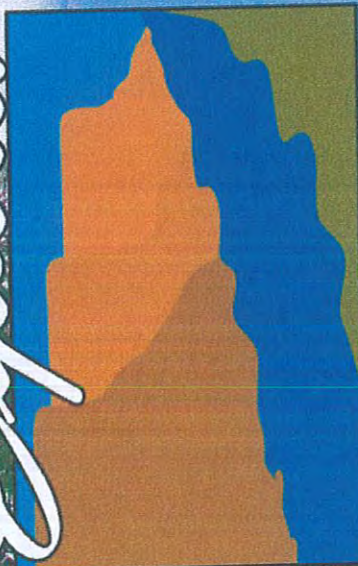
Idea 6 - Dover Park Water Remediation

John Dover Park is being developed by the Yellowstone River Parks Association. The concept plan for this major new recreation park along the Yellowstone River includes a major water remediation lake. This recreation lake will have the purpose of cleaning up storm water before it inters the Yellowstone River

H

and outdoor recreation. The lake would be developed by the City of Billings in cooperation with Yellowstone River Parks Association. The lake's function would be similar to Shiloh Ponds developed by the City. We believe design should be started before gravel mining is complete to enhance development of the lake. We don't have the information to propose a budget for this.

Explore!



ExploreYellowstoneRiver.org

*One thousand and one things
to do along the Yellowstone River.*

River Access

Museums

Bird Watching

History

Yellowstone River Trail
Gardner-Forsyth

Yellowstone River Trail
Forsyth-North Dakota

Community Parks & Trails

Additional Resources

River Safety



Coulson Park and Boat Launch

This is a City of Billings boat launch site. The site has good parking and a toilet. Coulson Park is an undeveloped park with birdwatching, picnicking, fishing, hiking, bird watching, and there is a boat launch (concrete) but it is often unusable due to high water or channel change.

<http://www.billingsparks.org/park/coulson/>

Take exit 450 off of I-90 and head south on 27th Street. Turn left on Garden Ave and go one block to Belknap Ave. Turn right and go until the end of the road.

Amenities:

Boat Services: concrete ramp (may be stranded during low water)

Wildlife Viewing/Birding

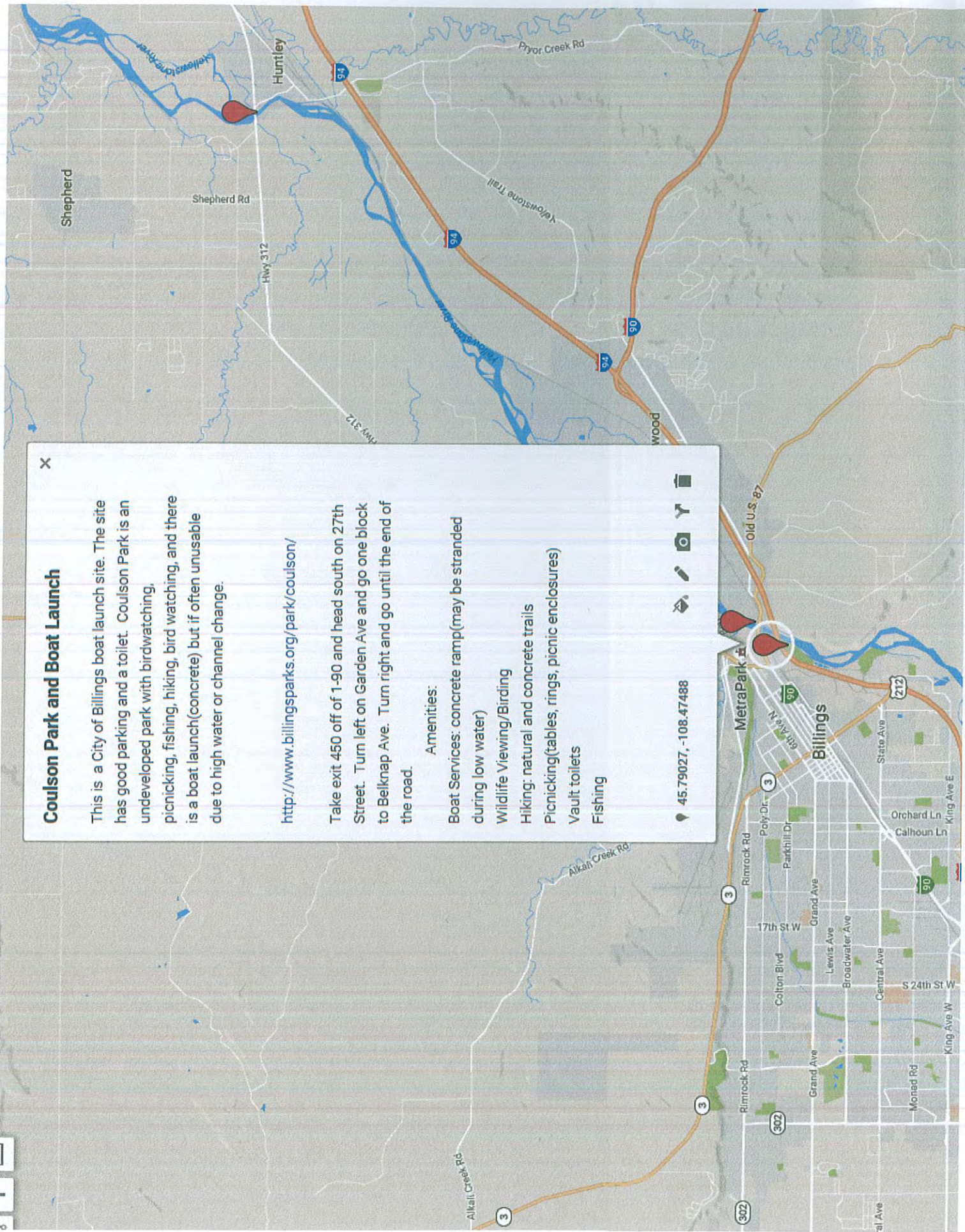
Hiking: natural and concrete trails

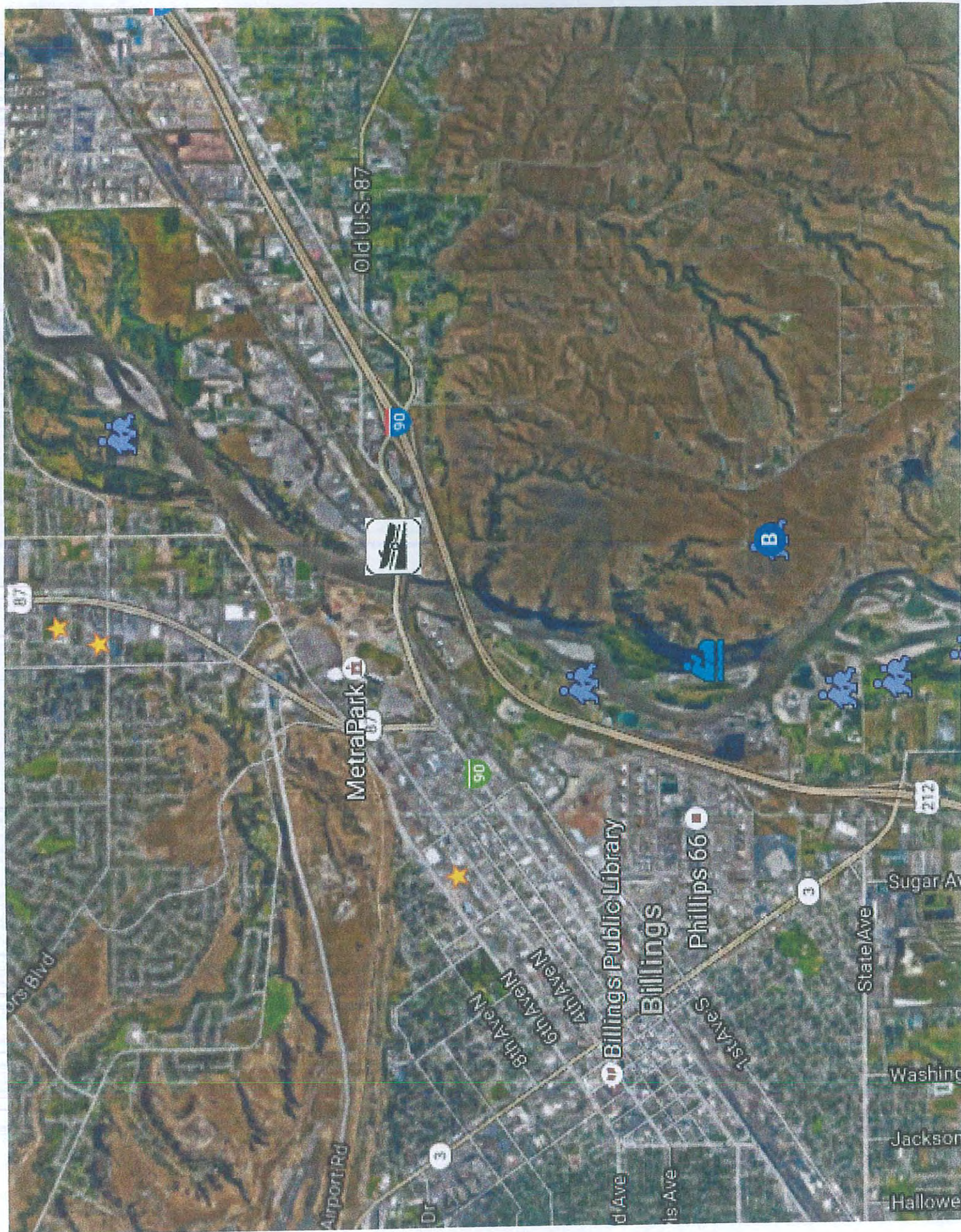
Picnicking (tables, rings, picnic enclosures)

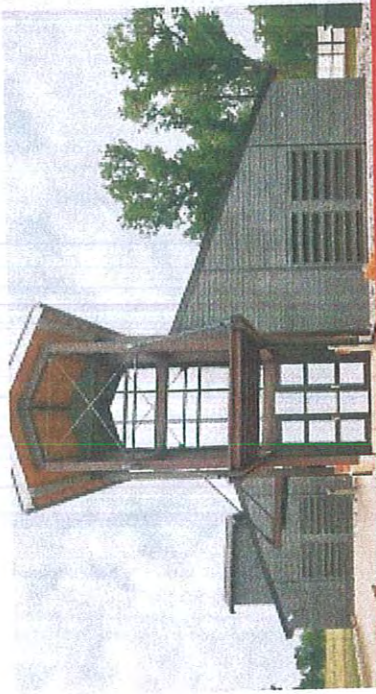
Vault toilets

Fishing

45.79027, -108.47488







Pompeys Pillar

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'www.pompeyspillar.org/history/

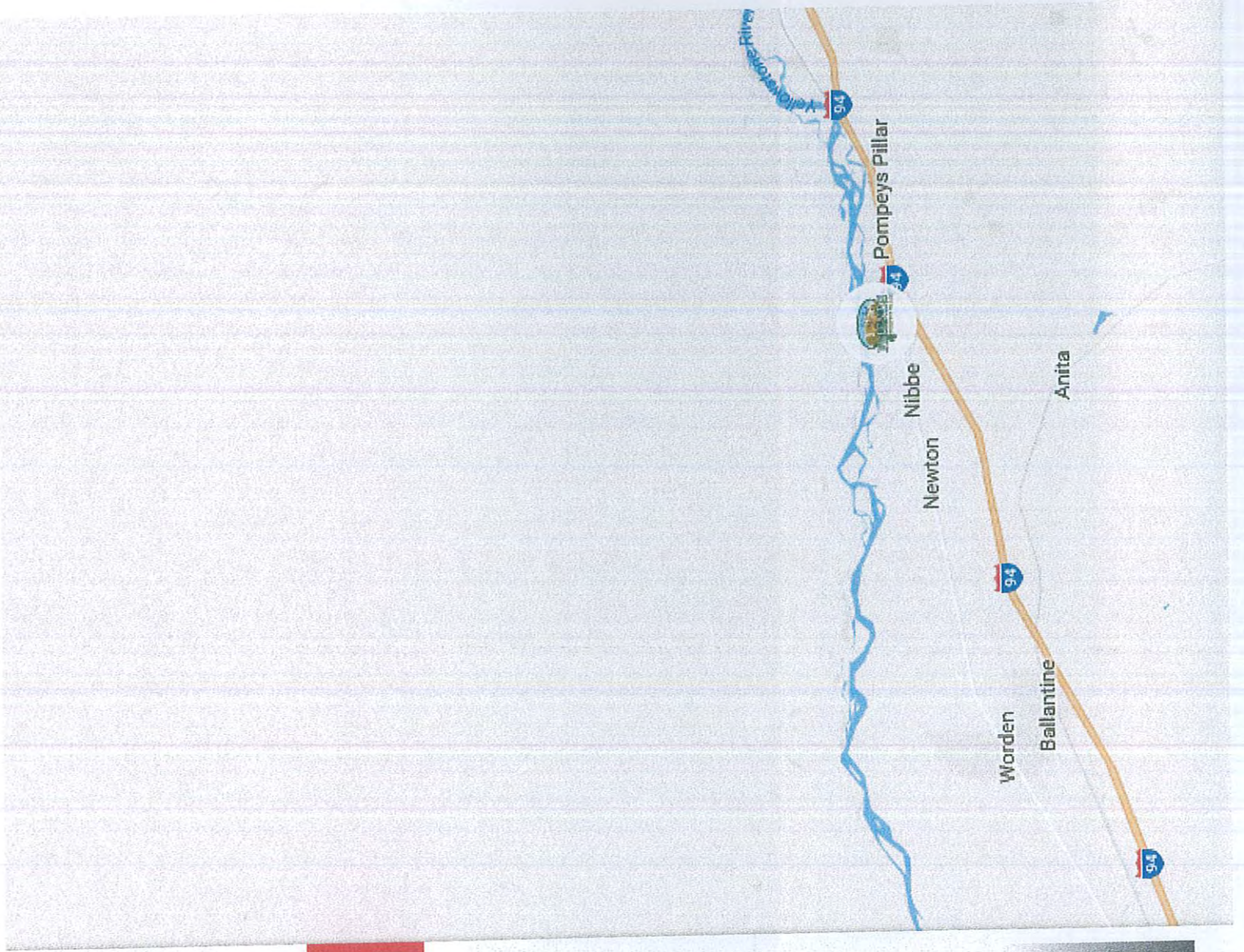
s from Google Maps

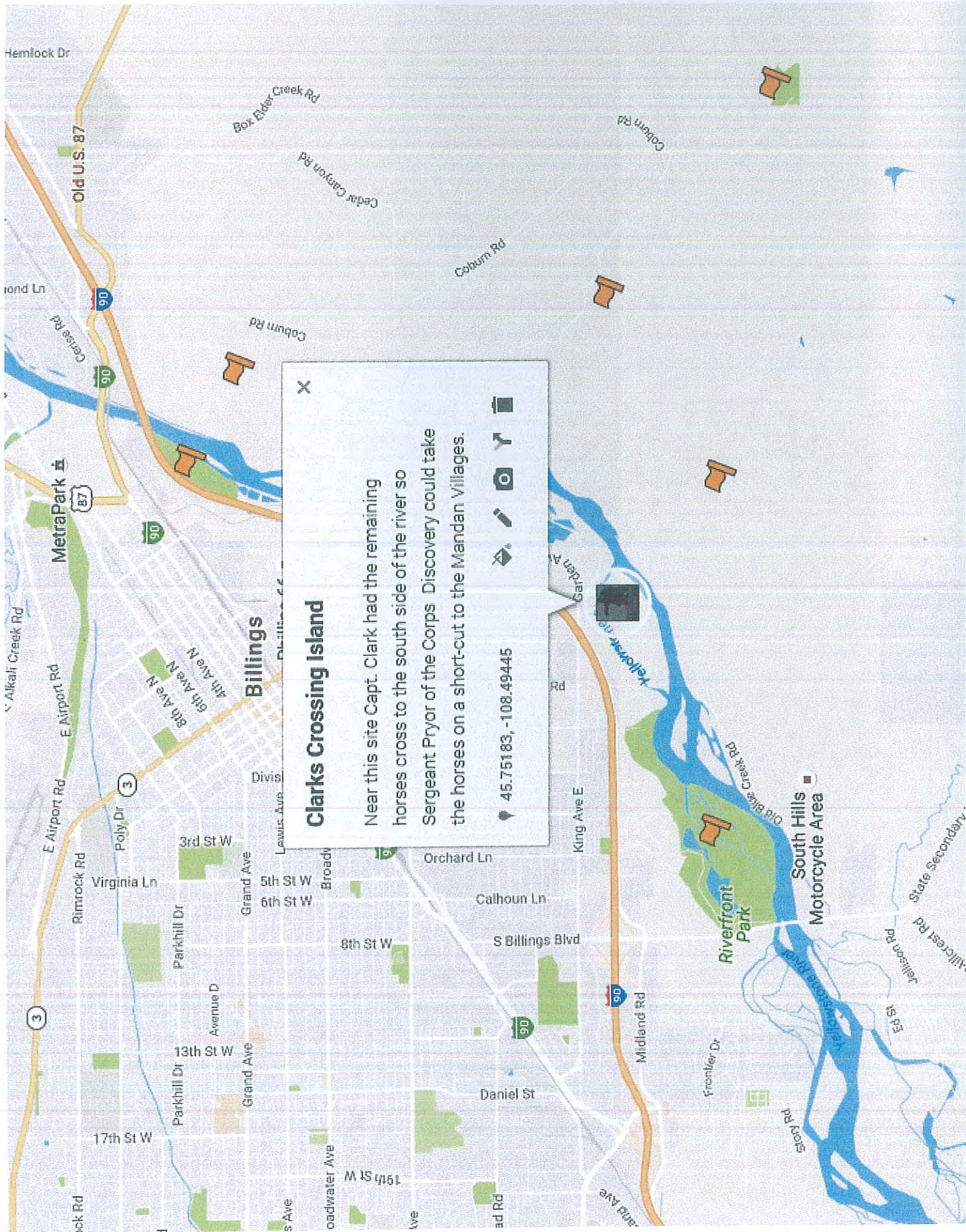
ays Pillar, Montana 59088

n Google Maps



s from Google Maps





Clarks Crossing Island

Near this site Capt. Clark had the remaining horses cross to the south side of the river so Sergeant Pryor of the Corps Discovery could take the horses on a short-cut to the Mandan Villages.

45.75183, -108.49445

Explore!

Friends of the Yellowstone River

Home

Additional Resources

River Safety

Websites of the following businesses, organizations and associations provide valuable information about recreation along the Yellowstone River Trail.



Montana Fish,
Wildlife & Parks

Plains Ecosystem Information



Absaroka
River

TAKE A WALK
ON THE WILD SIDE

**ROCKY MOUNTAIN RANCH REALTY**

2110 Overland Ave, Ste 122

Billings, Montana 59102

406-259-6666 • Fax: 406-259-2133

October 12, 2016

RECEIVED
OCT 12 2016
NATURAL RESOURCE
DAMAGE PROGRAM

Montana Fish, Wildlife & Parks
2300 Lake Elmo
Billings, MT 59105

On behalf of the owner, College Park LLP, Rocky Mountain Ranch Realty does hereby offer the attached exhibited property for your consideration to be acquired as part of the Exxon settlement for damages along the Yellowstone River frontage.

K

This parcel covers approximately 26 acres at the confluence of the Clarks Fork and the Yellowstone River. The property has access along Thiel River Road and would make an excellent fishing and quiet water boat launch area.

G

Please contact me about further information and details as questions arise.

Best regards,

Marvin Brown



Property Record Card

Summary

Primary Information

Property Category: RP

Geocode: 03-0821-23-1-09-01-0000

Primary Owner:

COLLEGE PARK LLP

100 N 27TH ST STE 320

BILLINGS, MT 59101-2054

Subcategory: Real Property

Assessment Code: 000D029200

PropertyAddress: 3001 THIEL RD

LAUREL, MT 59044

COS Parcel: 1

NOTE: See the Owner tab for all owner information

Certificate of Survey: 1750

Subdivision:

Legal Description:

S23, T02 S, R24 E, C.O.S. 1750, PARCEL 1

Last Modified: 9/26/2016 7:49:57 PM

General Property Information

Neighborhood: 004.1

Property Type: VR - Vacant Land Rural

Living Units: 0

Levy District: 03-2970-07L

Zoning:

Ownership %: 100

Linked Property:

No linked properties exist for this property

Exemptions:

No exemptions exist for this property

Condo Ownership:

General: 0

Limited: 0

Property Factors

Topography: 1

Fronting: 8 - Frontage Road

Utilities: 7, 8

Parking Type: 1 - Off Street

Access: 2

Parking Quantity: 2 - Adequate

Location: 0 - Rural Land

Parking Proximity: 3 - On Site

Land Summary

<u>Land Type</u>	<u>Acres</u>	<u>Value</u>
Grazing	0.000	00.00
Fallow	0.000	00.00
Irrigated	0.000	00.00
Continuous Crop	0.000	00.00
Wild Hay	0.000	00.00
Farmsite	0.000	00.00
ROW	0.000	00.00
NonQual Land	27.610	1,229.00
Total Ag Land	27.610	1,229.00
Total Forest Land	0.000	00.00
Total Market Land	0.000	00.00

Deed Information:

Deed Date	Book	Page	Recorded Date	Document Number	Document Type
7/3/2006	0033	83717			
3/2/1998	0019	12620			
3/8/1996	0018	19830			

Owners

Party #1

Default Information: COLLEGE PARK LLP
100 N 27TH ST STE 320

Ownership %: 100

Primary Owner: "Yes"

Interest Type: Conversion

Last Modified: 11/6/2007 9:25:03 PM

Other Names

Other Addresses

Name

Type

Appraisals

Appraisal History

Tax Year	Land Value	Building Value	Total Value	Method
2016	1229	0	1229	COST
2015	1229	0	1229	COST
2014	1596	0	1596	COST

Market Land

Market Land Info

No market land info exists for this parcel

Dwellings

Existing Dwellings

No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements

No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings

No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1

Acre Type: NQ - Non Qualified Ag Land

Class Code: 1701

Irrigation Type:

Timber Zone:

Productivity

Quantity: 0

Units: Non Qual

Valuation

Acres: 27.61

Value: 1229

Commodity:

Per Acre Value: 44.53

**ROCKY MOUNTAIN RANCH REALTY**

2110 Overland Ave, Ste 122

Billings, Montana 59102

406-259-6666 • Fax: 406-259-2133

October 12, 2016

RECEIVED**OCT 12 2016****NATURAL RESOURCE
DAMAGE PROGRAM**

Montana Fish, Wildlife & Parks
2300 Lake Elmo
Billings, MT 59105

On behalf of the owner, James E. Edwards, Rocky Mountain Ranch Realty would hereby like to offer the attached exhibited property for your consideration to be acquired as part of the Exxon settlement for damages along the Yellowstone River frontage.

K

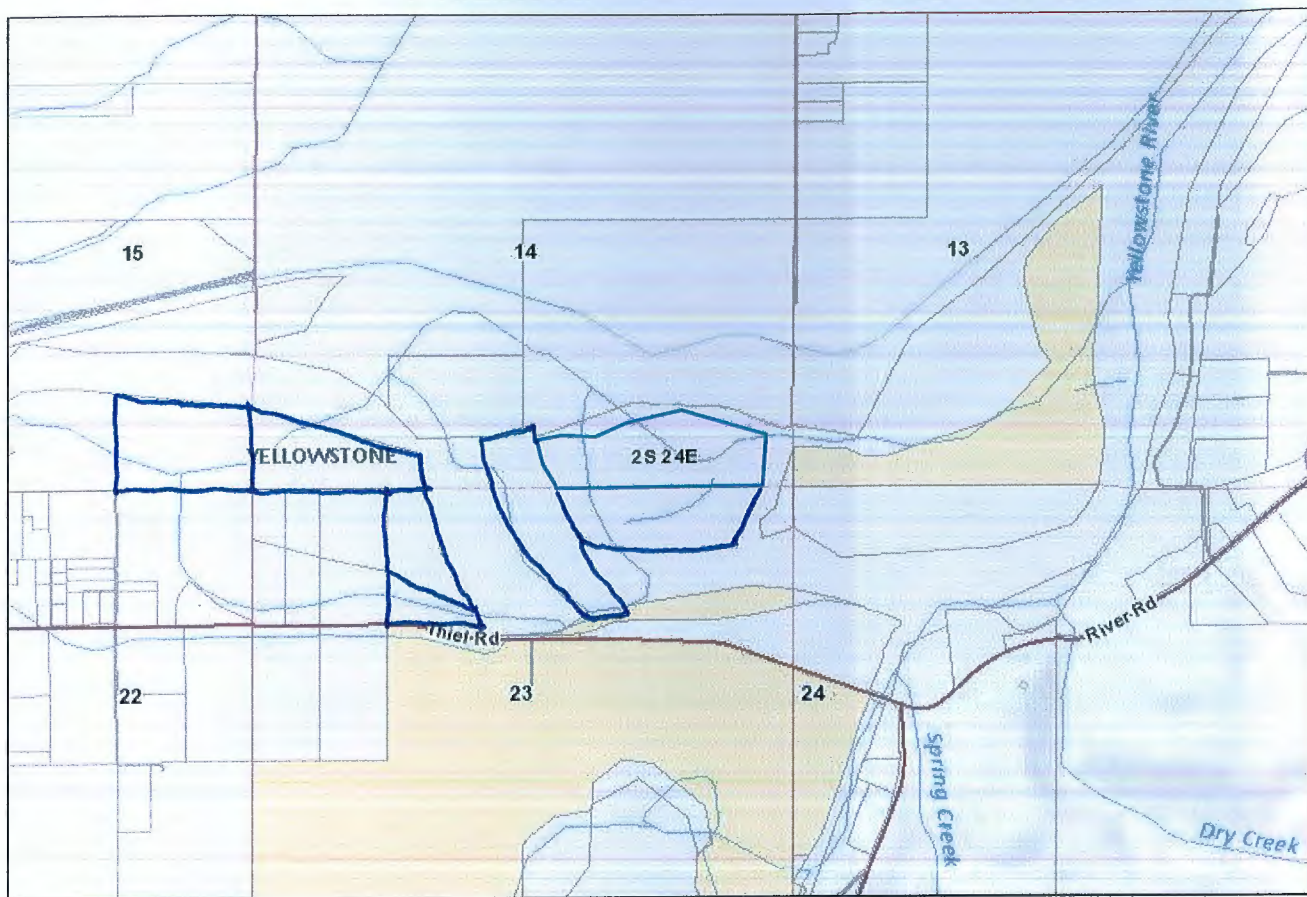
The property runs along the north shore of the Yellowstone River with side channels and wetlands scattered throughout the acreage.

The property was directly hit with the Exxon oil spills. The cleanup has been done and now would make an excellent walk-in fishery, hunting and camping area.

G

Sincerely,

Marvin Brown



Property Record Card

Summary

Primary Information

Property Category: RP

Subcategory: Real Property

Geocode: 03-0821-15-4-01-05-0000

Assessment Code: 000D027060

Primary Owner:

PropertyAddress:

EDWARDS, JAMES E

PO BOX 1

COS Parcel:

FISHTAIL, MT 59028-0001

NOTE: See the Owner tab for all owner information

Certificate of Survey:

Subdivision:

Legal Description:

S15, T02 S, R24 E, LT 7 SEC 15-2S-24E

Last Modified: 9/26/2016 7:51:55 PM

General Property Information

Neighborhood: 004.1

Property Type: AR - Agricultural Rural

Living Units: 0

Levy District: 03-2970-07L

Zoning:

Ownership %: 100

Linked Property:

No linked properties exist for this property

Exemptions:

No exemptions exist for this property

Condo Ownership:

General: 0

Limited: 0

Property Factors

Topography: 8

Fronting: 0 - None

Utilities: 0

Parking Type:

Access: 0

Parking Quantity:

Location: 0 - Rural Land

Parking Proximity:

Land Summary

<u>Land Type</u>	<u>Acres</u>	<u>Value</u>
Grazing	26.340	632.00
Fallow	0.000	00.00
Irrigated	0.000	00.00
Continuous Crop	0.000	00.00
Wild Hay	0.000	00.00
Farmsite	0.000	00.00
ROW	0.000	00.00
NonQual Land	0.000	00.00
Total Ag Land	26.340	632.00
Total Forest Land	0.000	00.00
Total Market Land	0.000	00.00

Deed Information:

Deed Date	Book	Page	Recorded Date	Document Number	Document Type
11/7/2001	0031	51879			
8/5/1997	0018	85434			
8/5/1997	0018	85435			
8/24/1995	0017	96629			

Owners

Party #1

Default Information: EDWARDS, JAMES E
PO BOX 1

Ownership %: 100

Primary Owner: "Yes"

Interest Type: Conversion

Last Modified: 11/6/2007 9:25:03 PM

Other Names

Other Addresses

Name

Type

Appraisals

Appraisal History

Tax Year	Land Value	Building Value	Total Value	Method
2016	632	0	632	COST
2015	632	0	632	COST
2014	790	0	790	COST

Market Land

Market Land Info

No market land info exists for this parcel

Dwellings

Existing Dwellings

No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements

No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings

No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1

Acre Type: G - Grazing

Irrigation Type:

Class Code: 1601

Productivity

Quantity: 0.043

Units: AUM/Acre

Valuation

Acres: 7.771

Value: 72

Ag/Forest Land Item #2

Acre Type: G - Grazing

Class Code: 1601

Productivity

Quantity: 0.142

Units: AUM/Acre

Valuation

Acres: 18.569

Value: 560

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 9.22

Irrigation Type:

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 30.16

Property Record Card

Summary

Primary Information

Property Category: RP

Subcategory: Real Property

Geocode: 03-0821-14-3-01-01-0000

Assessment Code: 000D027050

Primary Owner:

PropertyAddress:

EDWARDS, JAMES E

PO BOX 1

COS Parcel:

FISHTAIL, MT 59028-0001

NOTE: See the Owner tab for all owner information

Certificate of Survey:

Subdivision:

Legal Description:

S14, T02 S, R24 E, LT 5

Last Modified: 9/26/2016 7:51:55 PM

General Property Information

Neighborhood: 004.1

Property Type: AR - Agricultural Rural

Living Units: 0

Levy District: 03-5970-7DL

Zoning:

Ownership %: 100

Linked Property:

No linked properties exist for this property

Exemptions:

No exemptions exist for this property

Condo Ownership:

General: 0

Limited: 0

Property Factors

Topography: 8

Fronting: 0 - None

Utilities: 0

Parking Type:

Access: 0

Parking Quantity:

Location: 0 - Rural Land

Parking Proximity:

Land Summary

<u>Land Type</u>	<u>Acres</u>	<u>Value</u>
Grazing	21.720	522.00
Fallow	0.000	00.00
Irrigated	0.000	00.00
Continuous Crop	0.000	00.00
Wild Hay	0.000	00.00
Farmsite	0.000	00.00
ROW	0.000	00.00
NonQual Land	0.000	00.00
Total Ag Land	21.720	522.00
Total Forest Land	0.000	00.00
Total Market Land	0.000	00.00

Deed Information:

Deed Date	Book	Page	Recorded Date	Document Number	Document Type
11/7/2001	0031	51879			
8/5/1997	0018	85434			
8/5/1997	0018	85435			
8/24/1995	0017	96628			

Owners

Party #1

Default Information: EDWARDS, JAMES E
PO BOX 1

Ownership %: 100

Primary Owner: "Yes"

Interest Type: Conversion

Last Modified: 11/6/2007 9:25:03 PM

Other Names

Other Addresses

Name

Type

Appraisals

Appraisal History

Tax Year	Land Value	Building Value	Total Value	Method
2016	522	0	522	COST
2015	522	0	522	COST
2014	591	0	591	COST

Market Land

Market Land Info

No market land info exists for this parcel

Dwellings

Existing Dwellings

No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements

No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings

No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1

Acre Type: G - Grazing

Irrigation Type:

Class Code: 1601

Productivity

Quantity: 0.043

Units: AUM/Acre

Valuation

Acres: 6.319

Value: 58

Ag/Forest Land Item #2

Acre Type: G - Grazing

Class Code: 1601

Productivity

Quantity: 0.142

Units: AUM/Acre

Valuation

Acres: 15.401

Value: 464

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 9.22

Irrigation Type:

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 30.16

Property Record Card

Summary

Primary Information

Property Category: RP

Subcategory: Real Property

Geocode: 03-0821-23-2-13-01-6001

Assessment Code: 000D029160

Primary Owner:

PropertyAddress: 2305 THIEL RD

EDWARDS, JAMES E

LAUREL, MT 59044

PO BOX 1

COS Parcel:

FISHTAIL, MT 59028-0001

NOTE: See the Owner tab for all owner information

Certificate of Survey:

Subdivision:

Legal Description:

SECTION 23, 02 S, 24 E, LT 1 **MULTI-DISTRICT** 6.367 AC IN O7L / 12.393 AC IN 7DL

Last Modified: 9/26/2016 7:54:47 PM

General Property Information

Neighborhood: 004.1

Property Type: AR - Agricultural Rural

Living Units: 0

Levy District: 03-2970-O7L

Zoning:

Ownership %: 100

Linked Property:

No linked properties exist for this property

Exemptions:

No exemptions exist for this property

Condo Ownership:

General: 0

Limited: 0

Property Factors

Topography: 7, 8

Fronting: 8 - Frontage Road

Utilities: 7, 8

Parking Type: 1 - Off Street

Access: 1

Parking Quantity: 2 - Adequate

Location: 0 - Rural Land

Parking Proximity: 3 - On Site

Land Summary

<u>Land Type</u>	<u>Acres</u>	<u>Value</u>
Grazing	12.393	374.00
Fallow	0.000	00.00
Irrigated	0.000	00.00
Continuous Crop	0.000	00.00
Wild Hay	0.000	00.00
Farmsite	0.000	00.00
ROW	0.000	00.00
NonQual Land	0.000	00.00
Total Ag Land	12.393	374.00
Total Forest Land	0.000	00.00
Total Market Land	0.000	00.00

Deed Information:

Deed Date	Book	Page	Recorded Date	Document Number	Document Type
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Owners

Party #1

Default Information: EDWARDS, JAMES E
PO BOX 1

Ownership %: 100

Primary Owner: "Yes"

Interest Type: Conversion

Last Modified: 11/6/2007 9:25:03 PM

Other Names

Other Addresses

Name

Type

Appraisals

Appraisal History

Tax Year	Land Value	Building Value	Total Value	Method
2016	374	0	374	COST
2015	374	0	374	COST
2014	685	0	685	COST

Market Land

Market Land Info

No market land info exists for this parcel

Dwellings

Existing Dwellings

No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements

No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings

No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1

Acre Type: G - Grazing

Class Code: 1601

Productivity

Quantity: 0.142

Irrigation Type:

Timber Zone:

Commodity: Grazing Fee

Units: AUM/Acre

Valuation

Acres: 12.393

Per Acre Value: 30.16

Value: 374

Property Record Card

Summary

Primary Information

Property Category: RP

Subcategory: Real Property

Geocode: 03-0821-23-2-13-01-6000

Assessment Code: 000D029160

Primary Owner:

PropertyAddress: 2305 THIEL RD

EDWARDS, JAMES E

LAUREL, MT 59044

PO BOX 1

COS Parcel:

FISHTAIL, MT 59028-0001

NOTE: See the Owner tab for all owner information

Certificate of Survey:

Subdivision:

Legal Description:

S23, T02 S, R24 E, LT 1 **MULTI-DISTRICT** 6.367 AC IN O7L / 12.393 AC IN 7DL

Last Modified: 9/26/2016 7:49:56 PM

General Property Information

Neighborhood: 004.1

Property Type: AR - Agricultural Rural

Living Units: 0

Levy District: 03-2970-O7L

Zoning:

Ownership %: 100

Linked Property:

No linked properties exist for this property

Exemptions:

No exemptions exist for this property

Condo Ownership:

General: 0

Limited: 0

Property Factors

Topography: 7, 8

Fronting: 8 - Frontage Road

Utilities: 7, 8

Parking Type: 1 - Off Street

Access: 1

Parking Quantity: 2 - Adequate

Location: 0 - Rural Land

Parking Proximity: 3 - On Site

Land Summary

<u>Land Type</u>	<u>Acres</u>	<u>Value</u>
Grazing	6.367	129.00
Fallow	0.000	00.00
Irrigated	0.000	00.00
Continuous Crop	0.000	00.00
Wild Hay	0.000	00.00
Farmsite	0.000	00.00
ROW	0.000	00.00
NonQual Land	0.000	00.00
Total Ag Land	6.367	129.00
Total Forest Land	0.000	00.00
Total Market Land	0.000	00.00

Deed Information:

Deed Date	Book	Page	Recorded Date	Document Number	Document Type
11/7/2001	0031	51879			
8/5/1997	0018	85434			
8/5/1997	0018	85435			
8/24/1995	0017	96627			

Owners

Party #1

Default Information: EDWARDS, JAMES E
PO BOX 1

Ownership %: 100

Primary Owner: "Yes"

Interest Type: Conversion

Last Modified: 11/6/2007 9:25:03 PM

Other Names

Other Addresses

Name

Type

Appraisals

Appraisal History

Tax Year	Land Value	Building Value	Total Value	Method
2016	129	0	129	COST
2015	129	0	129	COST
2014	352	0	352	COST

Market Land

Market Land Info

No market land info exists for this parcel

Dwellings

Existing Dwellings

No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements

No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings

No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1

Acre Type: G - Grazing

Irrigation Type:

Class Code: 1601

Productivity

Quantity: 0.142

Units: AUM/Acre

Valuation

Acres: 3.395

Value: 102

Ag/Forest Land Item #2

Acre Type: G - Grazing

Class Code: 1601

Productivity

Quantity: 0.043

Units: AUM/Acre

Valuation

Acres: 2.972

Value: 27

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 30.16

Irrigation Type:

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 9.22

Property Record Card

Summary

Primary Information

Property Category: RP

Subcategory: Real Property

Geocode: 03-0821-23-1-11-01-0000

Assessment Code: 000D029180

Primary Owner:

PropertyAddress:

EDWARDS, JAMES E

PO BOX 1793

COS Parcel: 1

BILLINGS, MT 59103-1793

NOTE: See the Owner tab for all owner information

Certificate of Survey: 1177

Subdivision:

Legal Description:

S23, T02 S, R24 E, C.O.S. 1177, PARCEL 1

Last Modified: 9/26/2016 7:49:57 PM

General Property Information

Neighborhood: 004.1

Property Type: AR - Agricultural Rural

Living Units: 0

Levy District: 03-5970-7DL

Zoning:

Ownership %: 100

Linked Property:

No linked properties exist for this property

Exemptions:

No exemptions exist for this property

Condo Ownership:

General: 0

Limited: 0

Property Factors

Topography: 8

Fronting: 0 - None

Utilities: 0

Parking Type:

Access: 0

Parking Quantity:

Location: 0 - Rural Land

Parking Proximity:

Land Summary

<u>Land Type</u>	<u>Acres</u>	<u>Value</u>
Grazing	23.960	723.00
Fallow	0.000	00.00
Irrigated	0.000	00.00
Continuous Crop	0.000	00.00
Wild Hay	0.000	00.00
Farmsite	0.000	00.00
ROW	0.000	00.00
NonQual Land	0.000	00.00
Total Ag Land	23.960	723.00
Total Forest Land	0.000	00.00
Total Market Land	0.000	00.00

Deed Information:

Deed Date	Book	Page	Recorded Date	Document Number	Document Type
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Owners

Party #1

Default Information: EDWARDS, JAMES E
PO BOX 1793

Ownership %: 100

Primary Owner: "Yes"

Interest Type: Conversion

Last Modified: 11/6/2007 9:25:03 PM

Other Names

Other Addresses

Name

Type

Appraisals

Appraisal History

Tax Year	Land Value	Building Value	Total Value	Method
2016	723	0	723	COST
2015	723	0	723	COST
2014	880	0	880	COST

Market Land

Market Land Info

No market land info exists for this parcel

Dwellings

Existing Dwellings

No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements

No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings

No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1

Acre Type: G - Grazing

Class Code: 1601

Productivity

Quantity: 0.142

Irrigation Type:

Timber Zone:

Commodity: Grazing Fee

Units: AUM/Acre

Valuation

Acres: 23.96

Per Acre Value: 30.16

Value: 723

Property Record Card

Summary

Primary Information

Property Category: RP

Subcategory: Real Property

Geocode: 03-0821-23-1-15-01-0000

Assessment Code: 000D029170

Primary Owner:

PropertyAddress:

EDWARDS, JAMES E

PO BOX 1793

COS Parcel:

BILLINGS, MT 59103-1793

NOTE: See the Owner tab for all owner information

Certificate of Survey:

Subdivision:

Legal Description:

S23, T02 S, R24 E, LOT 14

Last Modified: 9/26/2016 7:49:56 PM

General Property Information

Neighborhood: 004.1

Property Type: AR - Agricultural Rural

Living Units: 0

Levy District: 03-5970-7DL

Zoning:

Ownership %: 100

Linked Property:

No linked properties exist for this property

Exemptions:

No exemptions exist for this property

Condo Ownership:

General: 0

Limited: 0

Property Factors

Topography: 8

Fronting: 0 - None

Utilities: 0

Parking Type:

Access: 0

Parking Quantity:

Location: 0 - Rural Land

Parking Proximity:

Land Summary

<u>Land Type</u>	<u>Acres</u>	<u>Value</u>
Grazing	25.380	765.00
Fallow	0.000	00.00
Irrigated	0.000	00.00
Continuous Crop	0.000	00.00
Wild Hay	0.000	00.00
Farmsite	0.000	00.00
ROW	0.000	00.00
NonQual Land	0.000	00.00
Total Ag Land	25.380	765.00
Total Forest Land	0.000	00.00
Total Market Land	0.000	00.00

Deed Information:

Deed Date	Book	Page	Recorded Date	Document Number	Document Type
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Owners

Party #1

Default Information: EDWARDS, JAMES E
PO BOX 1793

Ownership %: 100

Primary Owner: "Yes"

Interest Type: Conversion

Last Modified: 11/6/2007 9:25:03 PM

Other Names

Other Addresses

Name

Type

Appraisals

Appraisal History

Tax Year	Land Value	Building Value	Total Value	Method
2016	765	0	765	COST
2015	765	0	765	COST
2014	932	0	932	COST

Market Land

Market Land Info

No market land info exists for this parcel

Dwellings

Existing Dwellings

No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements

No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings

No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1

Acre Type: G - Grazing

Class Code: 1601

Productivity

Quantity: 0.142

Irrigation Type:

Timber Zone:

Commodity: Grazing Fee

Units: AUM/Acre

Valuation

Acres: 25.38

Per Acre Value: 30.16

Value: 765

Property Record Card

Summary

Primary Information

Property Category: RP

Subcategory: Real Property

Geocode: 03-0821-14-4-01-01-0000

Assessment Code: 000D027030

Primary Owner:

PropertyAddress:

EDWARDS, JAMES E

PO BOX 1793

COS Parcel:

BILLINGS, MT 59103-1793

NOTE: See the Owner tab for all owner information

Certificate of Survey:

Subdivision:

Legal Description:

S14, T02 S, R24 E, LOT 6 (LESS COS 1177)

Last Modified: 9/26/2016 7:51:54 PM

General Property Information

Neighborhood: 004.1

Property Type: AR - Agricultural Rural

Living Units: 0

Levy District: 03-5970-7DL

Zoning:

Ownership %: 100

Linked Property:

No linked properties exist for this property

Exemptions:

No exemptions exist for this property

Condo Ownership:

General: 0

Limited: 0

Property Factors

Topography: 8

Fronting: 0 - None

Utilities: 0

Parking Type:

Access: 0

Parking Quantity:

Location: 0 - Rural Land

Parking Proximity:

Land Summary

<u>Land Type</u>	<u>Acres</u>	<u>Value</u>
Grazing	32.060	710.00
Fallow	0.000	00.00
Irrigated	0.000	00.00
Continuous Crop	0.000	00.00
Wild Hay	0.000	00.00
Farmsite	0.000	00.00
ROW	0.000	00.00
NonQual Land	0.000	00.00
Total Ag Land	32.060	710.00
Total Forest Land	0.000	00.00
Total Market Land	0.000	00.00

Deed Information:

Deed Date	Book	Page	Recorded Date	Document Number	Document Type
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Owners

Party #1

Default Information: EDWARDS, JAMES E
PO BOX 1793

Ownership %: 100

Primary Owner: "Yes"

Interest Type: Conversion

Last Modified: 11/6/2007 9:25:03 PM

Other Names

Other Addresses

Name

Type

Appraisals

Appraisal History

Tax Year	Land Value	Building Value	Total Value	Method
2016	710	0	710	COST
2015	710	0	710	COST
2014	1037	0	1037	COST

Market Land

Market Land Info

No market land info exists for this parcel

Dwellings

Existing Dwellings

No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements

No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings

No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1

Acre Type: G - Grazing

Class Code: 1601

Productivity

Quantity: 0.142

Irrigation Type:

Timber Zone:

Commodity: Grazing Fee

Units: AUM/Acre

Valuation

Acres: 19.807

Value: 597

Per Acre Value: 30.16

Ag/Forest Land Item #2

Acre Type: G - Grazing

Class Code: 1601

Productivity

Quantity: 0.043

Units: AUM/Acre

Valuation

Acres: 12.253

Value: 113

Irrigation Type:

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 9.22

Stickney, Alicia

From: Lauren Alleman <lauren.alleman@gmail.com>
Sent: Wednesday, October 12, 2016 1:01 PM
To: Meloy, Sara
Cc: Stickney, Alicia
Subject: Re: NRDP Yellowstone River settlement question

Hi Sara - thank you so much for this thoughtful reply. It is great that the Yellowstone CEA can give some basic direction but I see how the gap between feasibility and implementation could be tricky to bridge.

Alicia, great to meet you! I'm curious if you have any insight as to how the MT NRDP will be evaluating and prioritizing restoration projects? Will there be public meetings to support or suggest projects, or perhaps some type of submission process? I looked into the Gulf Coast states and it seems like at least one state (Louisiana) is accepting public proposals (in addition to drawing from the pre-existing priority project lists). C

Many thanks to you both,
 Lauren

On Wed, Oct 12, 2016 at 1:51 PM, Meloy, Sara <SMeloy@mt.gov> wrote:

Hi Lauren,

Thanks for getting in touch. If you have follow-up questions or would like to talk more, feel free to give me a call (406)-444-4247.

Generally, the NRDP is accepting public comment on the draft restoration plan/EA found here: <https://dojmt.gov/governor-ag-announce-12-million-settlement-natural-resource-damage-2011-yellowstone-river-oil-spill/> until October 31 (a 30-day period).

The draft restoration plan references the Yellowstone CEA and the best management practices/projects (called "Yellowstone River Recommended Practices") that have come out of the study and are available here: http://yellowstonerivercouncil.org/pdfs/YellowstoneRiverYRRPs_Final-03_01_2016.pdf

These are suggested, scientifically-based projects, many of which align well with the proposed settlement restoration projects, but none of the projects have been prioritized or vetted on-the-ground (e.g. the document identifies potential areas for channel migration zone easements, but landowners haven't been contacted). This is a challenge that the Yellowstone River Conservation District Council is currently grappling with.

As for the state project prioritization process in terms of distributing funding, I'd recommend getting in touch with Alicia Stickney with the Natural Resource Damage Program (ccd here). I'm not sure how that process will work and am actually curious, myself. I'm not sure what further public comment periods will look like in between finalizing the restoration plan and implementing projects.

Hopefully I've answered a few of your questions. Let me know if I can be of further help!

- Sara

From: Lauren Alleman [mailto:lauren.alleman@gmail.com]
Sent: Saturday, October 08, 2016 12:22 PM
To: Meloy, Sara
Subject: NRDP Yellowstone River settlement question

Hi Sara,

I hope this finds you well. I am an ecologist with The Nature Conservancy and I'm trying to make connections between my knowledge of NRD as a Gulf Coast ecologist in the BP oil spill days and the state of play with NRD in Montana given the recent \$12M Yellowstone River settlement announced a couple weeks ago. I'm emailing you from my personal account because I am interested in moving to Montana and leveraging my experiences in other geographies to employers.

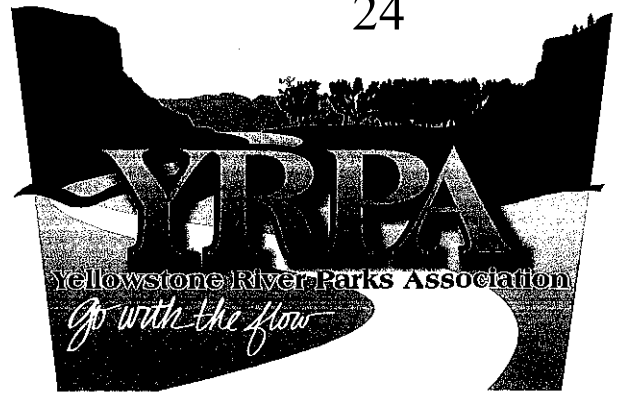
My colleague Sierra Harris at TNC suggested that you might have good information about whether there is a list of priority projects in the Yellowstone River that are being prioritized to fund with the settlement dollars. I ask because in the BP/Deepwater Horizon case, the state of Louisiana drew from a backlog of already proposed coastal restoration projects that are funded through taxes on small motor vessels (<https://lacoast.gov/new/Projects/List.aspx>) and is going to make sure that future projects align to a Coastal Master Plan. In that case, the NRD process allowed for public comment in between the restoration planning and implementation stages and I am curious how similar Montana's process will be.

Does the state have a similar framework for the Yellowstone River that would give some insight into the MTNRDP's project selection? I'm aware that there is a "Yellowstone River Cumulative Effects Analysis" and a "Strategic Framework for Wetland and Riparian Area Conservation and Restoration (2013-2017)". Any insight or direction to reading materials would be greatly appreciated!

Thank you in advance for your time!

All the best,

Lauren Alleman

**RECEIVED****OCT 07 2016****NATURAL RESOURCE
DAMAGE PROGRAM**

October 5, 2016

ATTN: Yellowstone Restoration Plan
Natural Resource Damage Program
P.O. Box 201425
Helena, MT 59620-1425

RE: Application – Damage Category: Terrestrial/Riparian Habitat

Ladies and Gentlemen:

Please let this letter serve as a formal written request for an application in the amount of \$866,610.00 to purchase Tract 1A of C.O.S. 2868, aka Dover Island. There are approximately 9,000 feet of river frontage consisting of 288 acres of cottonwood bottomlands.

K

YRPA is currently developing the John H. Dover Memorial Park adjacent to C.O.S. 2868. We own the 5 Mile Creek bottom flowing into the Yellowstone River as well as several thousand feet of Yellowstone River frontage. The acquisition of C.O.S. 2868 would allow for several more miles of river frontage.

YRPA has a proven record in our community and our properties were impacted by the spill. I have enclosed information on the John H. Dover Memorial Park plan.

We look forward to the public meetings and providing a formal presentation for the grant application.

Sincerely,

Darryl Wilson
President

DW/sec
Encl.

The Yellowstone River Parks Association is a 501 (c) (3) not-for-profit.

No goods or services were provided in return for this donation.

PO Box 1201, Billings, MT 59103
yrpa@yrpa.org (406) 248-1400

CERTIFICATE OF SURVEY NO. 2868

LOCATED IN SECTIONS 5, 6, 7 AND 8, T.1N., R.27E., P.M.M.,
YELLOWSTONE COUNTY, MONTANA

FOR: JAMES SINDELAR
BILLINGS, MT.

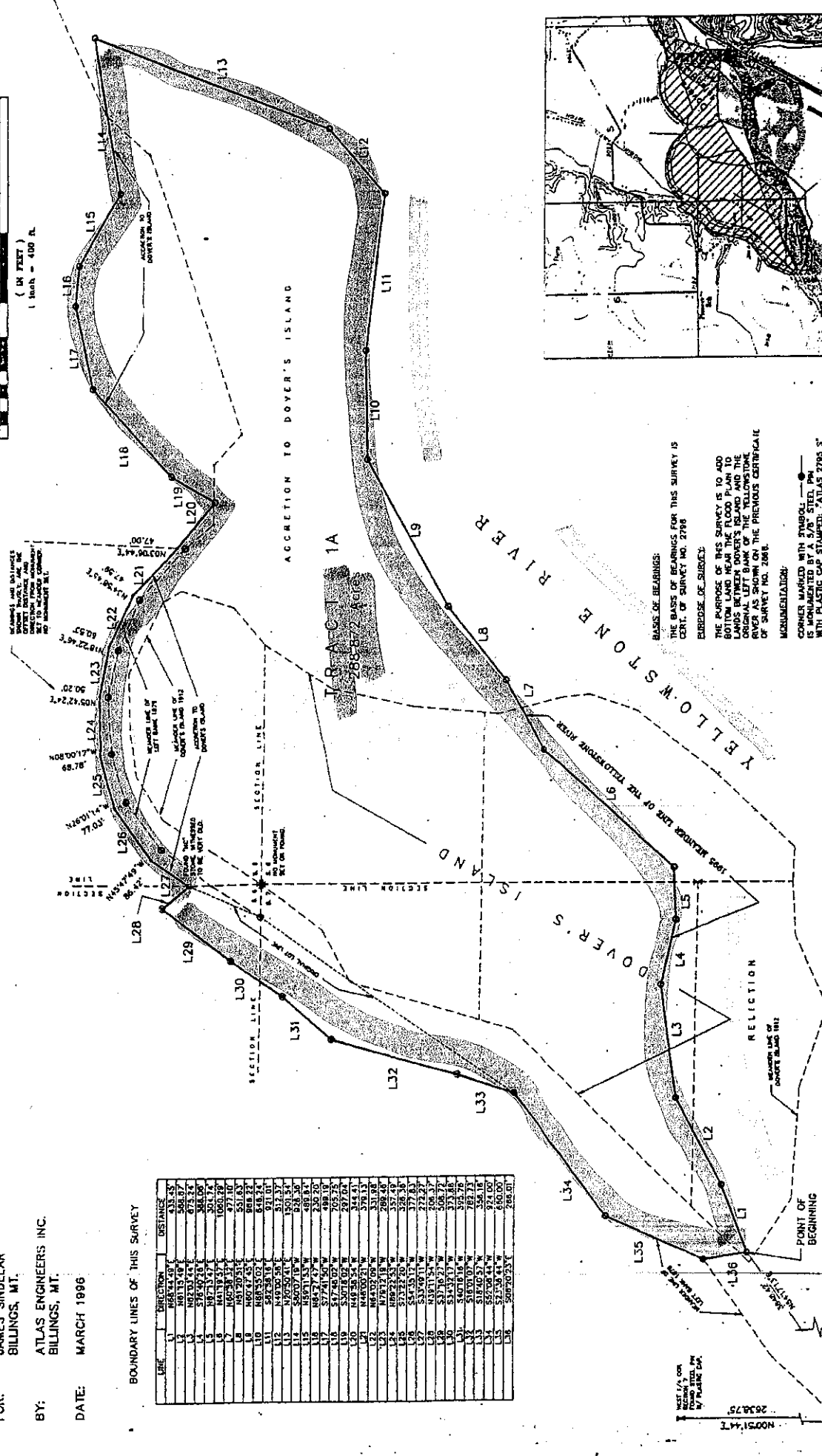
BY: ATLAS ENGINEERS INC.
BILLINGS, MT.

DATE: MARCH 1996

BOUNDARY LINES OF THIS SURVEY

LINE	DIRECTION	DISTANCE
L1	N68°44'49"E	433.45
L2	N61°15'49"E	568.97
L3	N62°03'43"E	675.32
L4	S76°42'15"E	388.00
L5	N41°15'51"E	1060.28
L6	N40°38'33"E	977.16
L7	N51°20'51"E	551.63
L8	N62°47'45"E	908.22
L9	N63°03'04"E	648.74
L10	N49°05'58"E	513.37
L11	S70°50'41"E	1301.34
L12	S60°07'16"W	628.30
L13	N64°31'43"W	318.83
L14	S74°41'50"W	488.19
L15	S74°41'50"W	488.19
L16	S74°41'50"W	488.19
L17	S74°41'50"W	488.19
L18	S74°41'50"W	488.19
L19	S74°41'50"W	488.19
L20	S74°41'50"W	488.19
L21	S74°41'50"W	488.19
L22	S74°41'50"W	488.19
L23	S74°41'50"W	488.19
L24	S74°41'50"W	488.19
L25	S74°41'50"W	488.19
L26	S74°41'50"W	488.19
L27	S74°41'50"W	488.19
L28	S74°41'50"W	488.19
L29	S74°41'50"W	488.19
L30	S74°41'50"W	488.19
L31	S74°41'50"W	488.19
L32	S74°41'50"W	488.19
L33	S74°41'50"W	488.19
L34	S74°41'50"W	488.19
L35	S74°41'50"W	488.19
L36	S74°41'50"W	488.19

GRAPHIC SCALE
(IN FEET)
1 INCH = 400 FT.

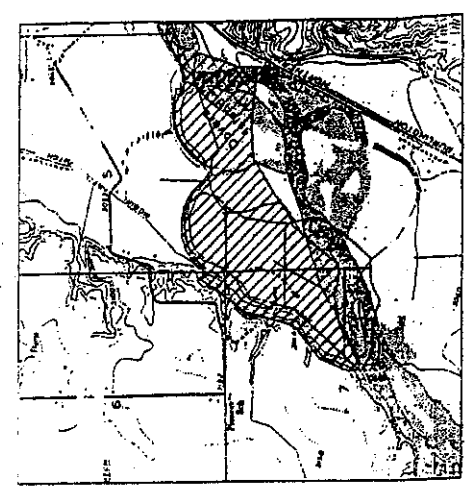


BASE OF BEARINGS:
THE BASE OF BEARINGS FOR THIS SURVEY IS
CORN. OF SURVEY NO. 2790

REMARKS:
THE PURPOSE OF THIS SURVEY IS TO ADD
BOTTOM LAND NEAR THE FLOOD PLAIN TO
LANDS BETWEEN DOYERS ISLAND AND THE
ORIGINAL LEFT BANK OF THE YELLOWSTONE
RIVER. THIS SURVEY IS A CONTINUATION
OF SURVEY NO. 2081.

MONUMENTATION:
CORNER MARKED WITH STUDBOLTS: —●—
IS MONUMENTED BY A 5/8" STEEL PIN
WITH PLASTIC CAP STAMPED "ATLAS 2790 S"
SET BY THIS SURVEY OR AS MAY BE NOTED
OTHERWISE.

CORNER MARKED WITH STUDBOLTS: —○—
IS MONUMENTED BY A 5/8" STEEL
PIN WITH PLASTIC CAP STAMPED "ATLAS 2790 S"
SET BY THIS SURVEY OR AS MAY BE NOTED
OTHERWISE.



SHEET 1 OF 2 SHEETS

Dover Park History

By the early 1990's, Jim Sindelar decided to preserve substantial portions of his farmland at the confluence of Five Mile Creek and Yellowstone River in Billings Heights for the future enjoyment of the public. He placed the homestead and the Five Mile Creek bottomland under easement with The Nature Conservancy to ensure preservation of its natural beauty, and began donating Five Mile Creek bottom and bench lands to Yellowstone River Parks Association for development into a public park. He chose YRPA because of its more than 20 year record of accomplishment developing trails and other amenities to enhance access to and enjoyment of public parks along the Yellowstone River. To date, nearly 170 acres has been donated to YRPA. When completed, the park will include over a mile of Yellowstone River frontage.

Jim Sindelar also sought to memorialize his grandfather by naming the park the *John H. Dover Memorial Park*. John Dover began homesteading this area in the 1880's, and the Dover-Sindelar family has farmed and ranched there since. There is a memorial plaque to Jim Sindelar's sister, Lois, on one of the headlands, now called *Lois's Point*, which overlooks the Yellowstone River.

The land has a rolling terrain with deep coulees and majestic overlooks, and will be a spectacular vista of native wildlife and riparian habitat. The land includes easements for public access via a multiuse, primary loop trail system. Secondary single-track trails will branch outward from the central trails to facilitate public access to the scenic benches and bottom lands. The Dover Park trails will, one day, be connected to the main east-west Billings *Heritage Trail System* via Mary St. and Dover Rd.



Dover Park Development

In 2010, YRPA engaged Land Design Inc. to develop a preliminary Master Plan using topographic, geologic, hydrologic, and historical information of the area. YRPA has made substantial progress developing the Park, and Land Design revised the Master Plan in 2015.

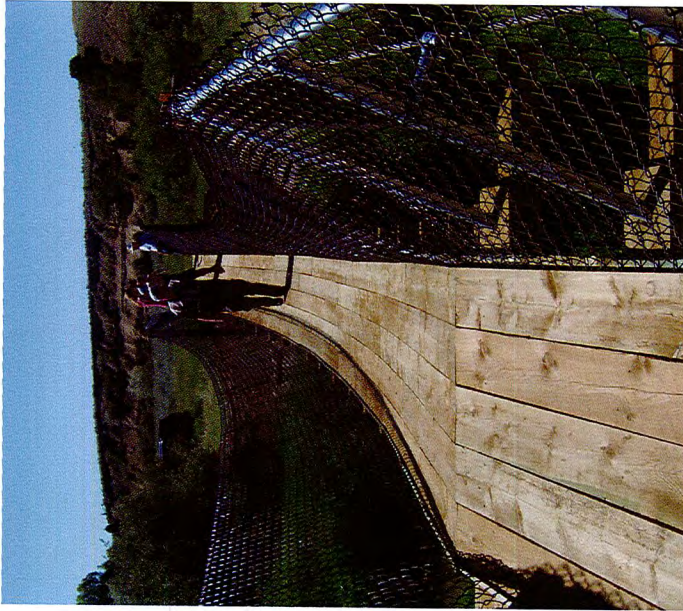
Beginning in the summer of 2012, YRPA's volunteers removed a dilapidated cabin and other out-buildings, and excavated debris from an old appliance dump and recycled its metal components. Members of the Montana Conservation Corps and Boy Scout Troop 18 helped YRPA volunteers remove several miles of interior barbwire fence and a rickety old footbridge. Thanks to the generosity of the Harry L. Willet Foundation and Mackin Construction, Dover Park already contains three new fixed-steel and two steel-cable suspension bridges. Approximately three miles of multiuse trails have also been constructed.

The future John H. Dover Memorial Park may ultimately include the gravel pit, also owned by the Sindelars, and operated currently by Knife River Co. The gravel pit is located near the northwest corner of the Sindelar's property. It lies on the high ground above Five Mile Creek and near the rims overlooking the Yellowstone River. The gravel pit has the potential to be reclaimed and developed into a substantial lake, with other attributes, on these beautiful highlands and bluffs.

In 2015 and beyond, YRPA will continue to develop primary multi-use trails and to clean up material from the old pasture lands. We will begin to remove invasive Russian olive trees and to control noxious weeds. A staging area has been cleared along the southwest entrance road, and will become a parking lot and trailhead with vault toilets. A facility will be built for a caretaker. Memorial benches can be placed at strategic intervals near the trails and at scenic overlooks.

A variable over which YRPA has very little control is the plan for the Billings Bypass Highway to come through Dover Park. Now that the Montana Department of Transportation has made their final Record of Decision, YRPA seeks to assure minimal disruption to the scenic tranquility of the Park, and the construction of over- and underpasses to safely move park users and resident wildlife away from the highway's surface. We also seek to ensure that the new highway bridge over the Yellowstone River has a separated and protected facility to safely move pedestrians and bicyclists between Dover Park and the growing community of Lockwood.

Developing the John H. Dover Memorial Park is an ambitious project that will take many years to complete, and will probably cost several million dollars. YRPA will seek out partners and benefactors to accomplish this long-term goal. Development will proceed in stages, but is well underway.



How You Can Help

Endowment Fund: YRPA has established the John H. Dover Memorial Park Endowment Fund with the Billings Community Foundation. The intent of this endowment fund is to assure the longevity of Dover Park.

Specific Projects: There is a growing list of specific projects for that need funding. These include: vault toilets, parking areas, caretaker facilities, water well, fences, secure storage for tools and supplies, signage, dog park fencing and amenities, irrigation improvements. We welcome ideas.

General donations: YRPA can always make use of donations. Although much of our labor is volunteer, materials, fuel, insurance, and equipment rental uses a lot of money.

Volunteer labor: Above all else, YRPA depends on volunteers. We use all kinds of skills, both manual and mental. Give us a call!



Contact us-

Phone: 406 248-1400

email: yrrpa@yrrpa.org

Our website: yrrpa.org

PO Box 1201

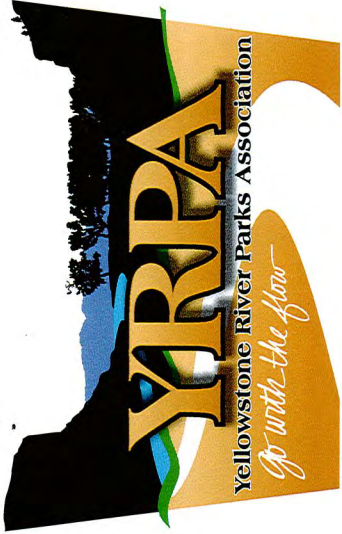
Billings, MT 59103



JOHN H. DOVER MEMORIAL PARK

John H. Dover Memorial Park is located at the junction of Mary Street and Five Mile Road in the Billings Heights. Lying along the Yellowstone River, it straddles Five Mile Creek with its riparian bottomlands and rise onto the Billings Bench.

The Yellowstone River Parks Association is undertaking the creation of a large, beautiful natural park as a private venture for the enhancement of the Billings community. YRPA intends for the public to have free access once the park is open.



Stickney, Alicia

From: Gibson, Robert
Sent: Wednesday, September 28, 2016 9:32 AM
To: Stickney, Alicia
Subject: settlement comment

Alicia – here is a forward of the first emailed comments I got from personal acquaintances re: the ExxonMobil Pipeline settlement proposal – bg

Bob: I assume that this is just like most public hearings, the decision has been made and the hearings are a mere formality, but I will try any way. The Exxon money represents a sizable amount of discretionary cash that can be spent wisely or on frivolous items of no lasting consequence. Exxon spent millions cleaning up the spill, in the years since, the bugs have finished the job. No money should be spent cleaning up stained piles of cottonwood etc (2+ Million Really? Kidding right?). I would recommend using the money to purchase access for Montana residents. How about an access below Columbus and above Buffalo Mirage? Ten years from now, no one will know if we spent millions "cleaning", oil is organic and while it is called crude for a reason, the long term effects are minimal. Spend the money wisely for something our kids will enjoy with their kids, the rest is just some ones pocket lining pet project. Mac

Mac Clark
 Beartooth Oil & Gas
 please note my new email address: mac@beartoothoil.com



Robert C. Gibson
 2300 Lake Elmo Dr.
 Billings, MT 59105
 (406) 247-2950

Coleman, Kathleen

From: ccstinson74@gmail.com
Sent: Tuesday, September 27, 2016 10:48 PM
To: Natural Resource Damage Program
Cc: ccstinson@iwflooring.com
Subject: Boat Ramp on Yellowstone River in Billings MT

Hello, I have lived in Billings since I was a very young. I have greatly enjoyed floating the Yellowstone River with my dad and friends every summer. The only problem is there isn't any boat ramps in or around billings that are worth a damn.

Having a boat ramp off of riverfront park or close to, would make for so much more recreational activities. Families could enjoy the greatest River more and more every year with a boat ramp in Billings. Not to mention us fly fisherman who love that Freestone more than any other River in the state.

Thanks for taking the time to read this.

God Bless!

Chris Stinson

Coleman, Kathleen

From: Brit Barnes <britterskideepow@icloud.com>
Sent: Tuesday, September 27, 2016 10:26 PM
To: Natural Resource Damage Program
Subject: Yellowstone restoration comment

Riverfront/billings Blvd boat access would be great!!

G

Coleman, Kathleen

From: Owner One <fhlwel@bresnan.net>
Sent: Tuesday, September 27, 2016 8:35 AM
To: Natural Resource Damage Program
Subject: Suggestion for use of Exxon settlement money

Hello

I would like to offer a suggestion for the use of the Exxon settlement money. Since the substance released into the river is carcinogenic, I think 10% of the money should go to Montana cancer patients, and another 10% to fish and wildlife preservation.

T

A

Larry Downer

TRANSCRIPT OF PUBLIC COMMENT
MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY
ExxonMobil Pipeline Company July 1, 2011
Yellowstone River Oil Spill Restoration Plan

Pursuant to Notice, a hearing for public comment on the ExxonMobil Pipeline July 1, 2011 Yellowstone River Oil Spill Plan, was held on October 12, 2016 at the 2300 Lake Elmo Driver, Fish Wildlife and Parks Region 5 Office. Billings, Montana, starting at 6:00 p.m.

APPEARANCES:

DOUGLAS H. MARTIN
Environmental Impact Specialist
Natural Resource Damage Program
Montana Department of Justice
1301 East Lockey
Helena, Montana 59620-1425

Also Present:

ALICIA STICKNEY
Environmental Scientist Specialist
Natural Resource Damage Program
Montana Department of Justice
1301 East Lockey
Helena, Montana 59620-1425

P R O C E E D I N G S

PRESENTATION GIVEN (not reported)

* * * * *

PUBLIC COMMENTS:

DARRYL WILSON: My name is Darryl Wilson.

D-A-R-R-Y-L; W-I-L-S-O-N.

And I wanted to say that I'm the president of Yellowstone River Parks Association, and I would like to my have name put on as a partner to be contacted in regards to the Restoration Plan.

That's it.

MR. MIKE PENFOLD: Mike Penfold.

P-E-N-F-O-L-D.

And I do volunteer work with a group called "Our Montana".

Generally we like the tone of the Restoration Plan. We give you high marks for doing that.

Our Montana has been working on developing, trying to encourage the development of a cooperative rivering trail program for several years for the under

1 700 miles of the Yellowstone River.

2 Projects that we are working on and would
3 like to partner with these various agencies -- I've got
4 a list of them just to touch upon a few.

5 One is, we have developed a website called
6 "exploreyellowstoneriver.org", and it's the most
7 robust recreation data that exists for the 700 miles of
8 the Yellowstone River.

9 On that, it has all the fishing websites, all
10 the public access sites within communities.

11 It's got good areas where you can bird
12 watch. It's got all the public land that we've been
13 able to identify along the Yellowstone River.

14 It's got on it recreation providers who will
15 provide, and probably been damaged by the oil spill per
16 boat rentals and fishing -- fly fishing sites, and
17 museums and trails along communities and good bird
18 watching areas. Very robust.

19 But we really would like to partner
20 with somebody to turn that website into an app.

21 So, there's people who are on the river, or in the
22 Yellowstone River corridor with easy access to
23 everything on there.

24 So, when you go by a Clark site on
25 the Yellowstone, you can read what happened at the

G

1 Clark's Camp because that information is on there.
2 So, that's the type of thing we'd like to partner
3 with.

4 Another one has to do with our research on
5 islands of the Yellowstone River. What we have
6 discovered is that there's a huge amount of unclaimed
7 islands, public islands owned by the State, some quite
8 often by the State that are not identified in terms of
9 ownership.

10 If we have a 700-mile-long recreation trail
11 people need to know where public land is where they can
12 legally stop.

13 These islands are really important for
14 outdoor recreation, hunting, places to fish. They're
15 good for catching woody debris. They have good
16 environmental resources except for weeds, which is
17 another project that we would like to cooperate on.

18 We think that the conservation groups in the
19 area would be really good partners with the various
20 agencies - DNRC, BLM, communities to at least do a
21 fleet bill spread in some of these areas that are so
22 concentrated with spotted knapweed we think that would
23 be a good partnership to sponsor.

24 Another idea in the material that I'm going
25 to give you, one, just to touch on that is there's a

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1 good research entity in Rocky Mountain College.

2 They're doing very good work on various projects that
3 affect the Yellowstone River.

4 Their problem is that they're undergraduate
5 work and they short, year-end projects. And they need
6 to have multi-year projects and some kind of a fund to
7 stretch over several years to do these projects. So,
8 we would support that.

T

9 There is a fishing access site at South
10 Billings Boulevard. The Department has tried to get
11 that developed. It's an excellent site. We'd like to
12 see them try that again.

G

13 So, those are a few things. Thank you very
14 much.

15 **MS. STICKNEY:** And you have written comments
16 for us?

17 **MR. PENFOLD:** And I even wrote it down.

18 **MS. STICKNEY:** Thank you very much.

19 **MS. ALEXIS BONOGOFISKY:** Hi. I am Alexis
20 Bonogofsky. I am a landowner along the Yellowstone
21 River that was impacted by the oil spill.

V3

22 First of all, I'm disappointed by the
23 amount.

O

24 In 2011, Exxon made \$5 million profit every
25 hour. So, to have \$12 million be the amount of the

1 restoration -- and like you said, it's probably not the
2 actual damages of the river, but it is what Exxon is
3 willing to pay.

4 And I'm frustrated that we allow this to
5 happen continually. This is just sort of the way we do
6 business now. If something happens to the environment,
7 the company then negotiates a settlement instead of
8 looking at the actual damages and what it would cost to
9 restore the river. We take what we can get.

10 So, I'm frustrated by the amount.

11 I think there's a lot of good projects in
12 here, but I think that you are trying to do too much

13 with too little. So, what I would like to see is a
14 prioritization on what you think would benefit the
15 river the most.

16 And to me, that would be probably the channel
17 migration easements, and maybe even looking at some

18 baseline surveys. I saw the article in the "Gazette"
19 where Bob Gibson talked about, you know, there was not
20 really good baseline data.

21 So, how do we know what we are restoring the
22 river to if we don't have good baseline data?

23 What do we know about counting turtles? How
24 many amphibians? How many of those species that we
25 don't really think about very often because they're not

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1 as charismatic as trout and walleye.

2 So, what kind of information do we have on
3 the Yellowstone River prior to this oil spill, and do
4 we know what river we're trying to restore it back to,
5 or is this just sort of like, "Here's some good
6 projects that would benefit the river"? That language
7 that we use about "making the river whole again" kind
8 of rubs me wrong a little bit because I don't think we
9 actually know what that means statistically. So, I
10 would like to see a collection of robust data set for
11 the species along the river.

12 Looking back, Exxon spent \$135 million on the
13 cleanup. They recovered less than 1% the oil.

14 If I had to do it all over again, I wouldn't
15 have let them on our property. Most of the damage from
16 the oil spill came from their cleanup.

17 We have 50 acres of wheat. We have a river
18 bottom that has weeds in it now that we've never had
19 before from their equipment. So, it was not a fun part
20 of our life.

21 So, I would like to see the projects narrowed
22 down to something that's actually achievable and not
23 necessarily just a negotiation between agencies on who
24 gets what money.

25 There is a lot of work to be done on the

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1 Yellowstone. Anything focusing on channel migration
2 easements and baseline data would be really important.

3 We just saw with the Yellowstone River fish
4 kill out by Livingston that there wasn't real good
5 baseline data on the whitefish.

6 Before the Fish Wildlife & Parks was saying
7 that a lot of that survey work had maybe overestimated
8 fish population, so it would be really nice to know
9 what's in our river.

10 So, yeah, I appreciate you taking my
11 comments, and I'll be submitting more detailed written
12 comments in the future.

13 But, I know the likelihood of it changing
14 from 12 million is probably not possible, but I would
15 have liked to see a little bit more money for the
16 river.

17 **MS. STICKNEY:** Thank you for your comments.

18 If you want to leave those with us, or later?

19 **MS. BONOPOFSKY:** Oh, I'll submit them later.

20 **MR. LEHENBAUER:** I'm Steve Lehenbauer.

21 L-E-H-E-N-B-A-U-E-R.

22 I also have property right on the Yellowstone
23 River. I have fish property that's right at the Clark
24 Forks and Yellowstone where it comes together right
25 there.

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V4

1 I would like to maybe partner with some soft
2 shore type restoration as a project.

3 So, I also know there is going to be a lot of
4 special interests groups. It sounds like there's two
5 or three in here right now wanting money for things
6 that may not even be connected with the actual damage
7 to landowners, like this gal here.

8 I would like to make sure that you guys try
9 to concentrate some of that money on people that were
10 really affected personally and not just hand it out to
11 special interest groups for a project that may not be
12 -- you know, that was not affected directly by the
13 spill.

14 So, just, yeah, I would like to be contacted
15 about maybe a project or something.

16 **MR. RICHARD HERR:** My name is Richard Herr.
17 I am a Councilman at Laurel, Laurel City.

18 And I really have studied. I don't know how
19 many of you have read this book, but I have read it
20 three times.

21 I don't agree with it all. There are lots of
22 things that are going on, and they will all work out
23 good for you, I'm sure.

24 I don't want to be saying "Laurel needs all
25 this money", because they don't. There is a park down

L

V5

1 there that was damaged. There's soft bank. There's
2 woody debris that you talk about.

3 I've lived in Laurel since 1975. If you
4 go out to the river in May and June, there is wood
5 floating down that river, a tremendous amount. And
6 huge cottonwoods, they're coming from upriver.

7 Why do we have to spend money upriver that's
8 already coming. We need to help you with your work.

9 We need damage control, yes, I agree.

10 Laurel has some things it needs we'd like
11 some money for. We're going the fight Billings. And
12 you know who wins? The big city. I mean, we will do
13 what we can.

14 I appreciate the work that's been done.

15 Fish and Game is here.

16 I have a question about this. The white
17 pelicans, what are the white pelicans doing on Tongue
18 River, on the Tongue River Reservoir? Are they
19 breeding down there? They are not being included.
20 Just the pelicans up north. They are not on the
21 Yellowstone. We need our monies to go to the
22 Yellowstone.

23 Now, 400,000 to the pelicans is fine. That's
24 a small amount of money. But, is there enough money
25 here already?

Q

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F

1 Those birds up at Malta, and over at
2 Culbertson area, four years ago, they didn't supply
3 maybe.

4 But in the past years, they's hundreds of
5 pelicans on the river. Where are they coming from?

6 Maybe from up there, they're getting bred,
7 but does that mean that fox are eating those, all those
8 little ones? Because we're gaining some. We're
9 getting back to normal.

10 We are doing a water project over in Laurel.
11 It associated with, but not with this project.

12 The river right now, if they did not riprap
13 with large rock on the south side of the Laurel bridge,
14 that whole park that we have down there would be
15 inundated.

16 Two years ago, it took out about 30% -- or a
17 percentage of the dyke that we have. We had to get
18 back and re-riprap higher.

19 The Corps of Engineers allowed us. We had to
20 go back in for more permission.

21 We did it. We saved the bank.

22 But they already planted -- and I think we
23 talked earlier -- several hundred trees, soft bank.

24 And a lot of them went down the river before they could
25 save them.

1 We have re-planted, but it's an extra cost.

2 It more cost to the City. We've done it.

3 I just appreciate what you have done.

4 Thank you.

5 **MS. STICKNEY:** Other comments?

6 **ERIC WOLFF:** My name is Eric Wolff.

7 I'd like to see some of this money be used

8 for Yellowstone Billings and downstream.

9 Montana's famous for taking care of all the

10 trout areas of the river. And there's a lot in here

11 that's Laurel to Billings, and really nothing

12 downstream of Billings. A lot of this river below

13 Billings was affected.

14 So, you know, I fish the Yellowstone a lot,

15 all below Billings, since 2005. The three years after

16 the oil spill were the worst three years I've ever

17 seen. Just unreal how bad it was.

18 And I fish with guys that are extremely good

19 fishermen, and none of us could find any fish. A lot

20 of little fish. It was really bad. It's finally

21 starting to get back a little bit.

22 So, my comments are really based on just a

23 couple of area.

24 Fish passages. We only have one on the

25 Yellowstone that works around our diversion dams. All

V6

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J

1 the big diversion dams, there's only one that works.

2 So, before we fix any passages on the
3 tributaries, the fish that are stuck between those
4 diversion dams, they can't move anywhere. They can't
5 get to those tributaries alone. So, I'd like to maybe
6 see some of that money go to fixing the passages on the
7 diversion dams that we have.

8 And then the other area is just access. They
9 take really good care of all our accesses upstream of
10 Billings. Nothing ever goes to our accesses downstream
11 of Billings.

12 They have in here for a motorized access at
13 Riverfront. You got one like two miles up the river at
14 Duck Creek. You've got one another two, three miles
15 down at Coulson. Those are both motorized. Why do we
16 need another right there?

17 We have nothing below the Huntley Diversion
18 Dam. So, if you do have another spill, how do you get
19 access for the Diversion Dam? It has to be all through
20 private land.

21 You have your few at Road 18, but those don't
22 work in low water conditions. 27th Street doesn't work
23 in low water conditions.

24 So, you know what, an access, a motorized
25 access below the Huntley Diversion Dam might be money

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1 better spent than putting another one in an area that
2 already has plenty of them.

3 Nonmotorized can still get in and out right
4 there, but motorized, they're going to go more than two
5 miles. They can run the extra two miles to another
6 access.

7 Then I guess I just really have a hard time
8 with Lake Josephine and Laurel Pond. They weren't
9 really affected. You know, the City of Billings, the
10 park stuff, we didn't lose any use of the properties.
11 We lost the use of the river. We lost the use of our
12 landings. We had really poor fishing for years.

13 I mean, you lost decades of fish in that
14 spill, and it would be nice if you saw more of that
15 money used towards fixing things.

16 I mean, our diversion dams are horrible on
17 that river, really. If they did one thing to the
18 river, they should fix the diversion dams.

19 I saw the Corps show up one day with a whole
20 bunch of fancy jet boats. They said they were to going
21 run to Forsyth. I said, you guys are going to make it
22 about six miles when you hit the diversion dam.

23 Oh, no, we can go around there.

24 None of them worked. They only work on a
25 really high water year.

F

1 Well, the fish can't get up. They're stuck.
2 It's amazing that we have as good of fishing
3 as we do.

4 So, that's all I got say. I'd like to see
5 more in fish passages and an access below Huntley.

6 So, thank you.

7 **MS. STICKNEY:** Are there any more comments?

8 And, of course, you don't have to speak
9 tonight. You can submit comments in writing until
10 October 31st. So, don't feel that you need to stand up
11 and speak if that's not your thing.

12 **MS. WENDY WEAVER:** Hello. My name is Wendy
13 Weaver, W-E-A-V-E-R.

14 I'm the Executive Director for Montana
15 Aquatic Resource Services. We are a nonprofit founded
16 in 2011 in response to the rapid loss of aquatic
17 resources in Montana.

18 So, one of the reasons we are here today is
19 our primary program that we have, which is tied
20 directly into the damage from the oil spill is our
21 Yellowstone Channel Migration Easement Program.

22 So the program is a unique type of
23 conservation easement where willing landowners sell in
24 perpetuity their rights to stabilize river banks. So,
25 riprap, no levees or any form of bank stabilization.

V7

B

1 So, this program was started partly because
2 of the hard work of the YRCDC and the cumulative
3 effects analysis that was on the river, which is just
4 coming to an end, hopefully finalizing this year.

5 And one of their recommendations from that
6 study was channel migration easements.

I

7 So, I guess what I would like to say about
8 the program is, we are positioned really well, along
9 with other partner agencies and other conservation
10 organizations to deliver projects. That addresses 8
11 out of 12 project types listed in the Restoration
12 Plan.

B

13 So the program places under protection the
14 channel migration zoned land along the Yellowstone. So
15 we currently closed on our first project outside of
16 Sidney in April. We are about to close on the next one
17 outside of Forsyth by the end of this year, and we have
18 a number of other projects, landowners working with
19 additional projects.

20 So, I would like to offer that and have you
21 consider, I believe it's one of the OPA's criteria for
22 addressing a number of issues. So, I feel like with
23 the protection of a channel migration zone, it address
24 woody debris, reconnects flood plain side channel
25 blockages and a number of other things.

1 So, thank you.

2 Oh, one other question I had.

3 Have you guys talked about or discussed what
4 type of length you want the land protections to be? Is
5 that perpetuity, or have you had any discussion along
6 that line?

7 **MS. STICKNEY:** We can answer -- since we are
8 doing the hearing, you know, a court reporter now, we
9 will answer that in your comments.

10 So, just ask Fran.

11 **MS. WEAVER:** You got that?

12 **THE REPORTER:** Yes.

13 **MS. STICKNEY:** Are there any other
14 comments?

15 **MR. BRIAN CORCORAN:** My name is Brian
16 Corcoran, C-O-R-C-O-R-A-N.

17 At the conclusion of the life-year project,
18 or proposed, I would like to know how much money will
19 be allocated for the continuation of monitoring to the
20 riparian areas and the aquatic species within the
21 river, and if that would be a projection of a set
22 amount of time, or until the funds run out, and see if
23 there would be any increased to what you folks already
24 do, or if that will just be for the duration of the
25 projects?

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1 **MS. STICKNEY:** We will answer that.

2 Any other questions or comments?

3 I guess I would say that if you have not
4 spoken up tonight, please do submit written comments to
5 us by October 31st, and we will do our best to address
6 your comments.

7 **MR. MARTIN:** And with that, I guess we will
8 the close the hearing. We will be around if anybody
9 has any questions.

10 (Whereupon, the public comments was concluded
11 at 7:15 p.m.)

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REPORTER'S CERTIFICATE

CASE TITLE: Yellowstone River Restoration Plan

HEARING DATE: October 12, 2016

LOCATION: Billings, Montana

I hereby certify that the proceedings and evidence herein are contained fully and accurately on the stenographic notes reported by me at the hearing in the above matter, and that this is a true and correct transcript of the same.

DATE: October 18, 2016

Frances L. Mock
Big Sky Reporting
2308 Interlachen Circle
Billings, Montana 59105